

**TITLE 19
OF THE
SAN JOSE MUNICIPAL CODE**

SUBDIVISION ORDINANCE

This edition incorporates all ordinances amending Title 19 of the Municipal Code through Ordinance No. 27322, effective February 25, 2005.

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Chapter 19.04

GENERAL PROVISIONS ₁

19.04.010 Purpose of provisions.

It is the purpose of this Title 19 to regulate and control the division of land within the city of San José and to supplement the provisions of the Subdivision Map Act concerning the design, improvement and survey data of subdivisions, the form and content of all maps provided for by the Subdivision Map Act, and the procedure to be followed in securing the official approval of the city engineer, the director and city council regarding such maps. To accomplish this purpose, the regulations outlined in this title are determined to be necessary for the preservation of the public health, safety and general welfare.
(Prior code § 9200.)

19.04.020 Reference to other laws.

Whenever reference is made to any portion of this title or to any ordinance or statute, such reference applies to all amendments and additions to such title provisions, ordinance or statute now or hereafter made.
(Prior code § 9202.)

19.04.030 Application of title provisions - Annexed areas.

A. The regulations set forth in this title shall apply to all subdivisions or parts thereof within the city, and to the preparation of subdivision maps thereof and to other maps provided for by the Subdivision Map Act. Each such subdivision and each part thereof lying within the city shall be made, and each such map such be prepared and presented for approval, as hereafter provided for and required.

B. When any area in a subdivision as to which a final map or parcel map has been recorded pursuant to the Subdivision Map Act is thereafter annexed to the city, the final map or parcel map and any agreements relating to such subdivision shall continue to govern such subdivision.

C. When any area in a subdivision or proposed subdivision as to which a tentative map has been filed but a final map has not been finally approved, or as to which a parcel map is required, but such parcel map has not been recorded, is annexed to the city, all procedures and regulations required by the Subdivision Map Act or this Title 19 shall be deemed to commence as of the effective date of the annexation and the map shall comply with all the requirements including also the payment of fees of any applicable ordinance of the city.

D. Any subdivider may file a tentative map of a proposed subdivision in a territory adjacent to such city prior to annexation. If such map is approved, such approval shall be conditional upon the annexation of the property to city within a time to be specified in such condition and such approval shall not be effective until annexation of such property to city has been completed. If

annexation is not completed within the time specified or any extension thereof, then the approval of such map shall be null and void. No final or parcel map may be filed under this provision unless annexation to the city has been completed.
(Prior code § 9201; Ord. 22126.)

19.04.040 Director of planning to be advisory agency -Powers and duties.

The director is designated the “advisory agency” as defined in the Subdivision Map Act, and is charged with the duty of making investigations and reports on the design and improvement of proposed divisions of real property, the imposing of requirements or conditions thereon, and having the authority to approve, conditionally approve, or disapprove tentative maps of proposed subdivisions.
(Prior code § 9204.)

19.04.050 Modifications or waivers authorized when.

The director may modify or waive any regulation contained in this Title 19 if it is found that:

- A. A special individual reason makes it unreasonable or impracticable for the subdivider to observe the strict letter of the regulation;
- B. The modification or waiver does not violate the spirit and purpose of the Subdivision Map Act or of this Title 19; and
- C. The modification or waiver is reasonably necessary or expedient for the preservation and enjoyment of a substantial property right of the subdivider and will not be detrimental to the public welfare, provided, however, that whenever city council approval is required for any deviation from any regulation contained in this chapter the director may not modify or waive such regulation without prior approval of the city council.
(Prior code § 9205.)

19.04.060 Conditions for disapproval of maps - Waiver permitted when.

Whenever a tentative parcel or final map fails to comply with any of the requirements or conditions imposed by the Subdivision Map Act or this title (and in the case of a parcel map or final map, applicable at the time of approval of the tentative map), such maps shall be disapproved by the person or body authorized to approve such maps, provided that such disapproval shall be accompanied by a finding identifying the requirements or conditions which have not been met or performed; provided, that when such failure to comply occurs because of technical and inadvertent error which, in the determination of the director in the case of a tentative map, the city engineer in the case of a parcel map, and the city engineer or the city council on appeal in the case of a final map, does not materially affect the validity of the particular map in question, such failure to comply may be waived, and the map may be approved.
(Prior code § 9205.1; Ords. 18750, 26386.)

19.04.070 Regulations not to apply to certain short-term leases and public conveyances.

The regulations of this Title 19 shall not apply to divisions of real property created solely by short-term leases (terminable by either party on not more than thirty days' notice in writing) of a portion of the operating right-of-way of a railroad corporation, defined as such by Section 230 of the Public Utilities Code or for land conveyed to or from a governmental agency, public entity or public utility, or to a subsidiary of a public utility for conveyance to such public utility for rights-of-way, unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates the application of such regulations to such short-term leases or conveyances in such individual cases.

(Prior code § 9293; Ords. 19627, 22126.)

19.04.080 Passive or natural heating or cooling.

The design of a subdivision for which a tentative map is required pursuant to Section 66426 of the Government Code of the state of California shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision in accordance with the requirements of Section 66473.1 of the said Government Code. For the purposes of this section, feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors. This section does not apply to condominium projects which consist of the subdivision of this space in an existing building when no new structures are added.

(Ords. 19629, 22126.)

19.04.090 Soils report.

Wherever the word “soil report” appears in Sections 19.12.060, 19.12.070 and 19.16.120 of the San José Municipal Code, the said word shall be deemed to be “soils report.”

(Ord. 19629.)

Endnotes

- 1 . For the general provisions in the Subdivision Map Act, see Gov. Code § 66410 et seq.

Chapter 19.08

DEFINITIONS ₂

19.08.010 Definitions generally.

For the purpose of this Title 19, certain words and phrases are defined and certain provisions shall be construed as herein set forth unless it shall be apparent from their context that a different meaning is intended.
(Prior code § 9206.)

19.08.020 Alley.

“Alley” means a public way, other than a freeway or street as defined in this chapter, intended primarily for vehicular access to the back or side of properties otherwise abutting on a street.
(Prior code § 9206a.)

19.08.030 Building department.

“Building department” means the building department of the city of San José.
(Prior code § 9206b.)

19.08.040 City council.

“City council” means the city council of the city of San José.
(Prior code § 9206e.)

19.08.050 City engineer.

“City engineer” means the director of public works of the city of San José.
(Prior code § 9206c.)

19.08.060 Collector street.

“Collector street” means a street whose primary function is to carry vehicular traffic from minor streets to a freeway, expressway or major street.
(Prior code § 9206dd.)

19.08.070 Commission.

“Commission” means the city planning commission of the city of San José.
(Prior code § 9206d.)

19.08.080 Cul-de-sac street.

“Cul-de-sac street” means a minor street having but one outlet for vehicular traffic with special provision for turning around.
(Prior code § 9206ee.)

19.08.090 Dead-end street.

“Dead-end street” means a minor street having but one outlet for vehicular traffic, without special provision for turning around.
(Prior code § 9206ff.)

19.08.100 Design.

“Design” means design as defined in the Subdivision Map Act.
(Prior code § 9206f.)

19.08.110 Director.

“Director” means the director of planning of the city of San José.
(Prior code § 9206g.)

19.08.120 Drainage facility.

“Drainage facility” means any device or structure which may be used to control the flow of water, including, but not limited to, pipes, ditches, berms, channels, gutters, curbs, walls, pavement, and appurtenant safety devices.
(Prior code § 9206h.)

19.08.130 Driveway.

“Driveway” means a private minor vehicular right-of-way, other than a street, the primary function of which is to provide access to property from a street as defined herein.
(Prior code § 9206i.)

19.08.140 Earth.

“Earth” means rocks, bedrock, minerals, soils, organic materials or any combinations thereof, irrespective of their mode or origin or their physical characteristics.
(Prior code § 9206i.1.)

19.08.150 Expressway.

“Expressway” means a street that is used, or is intended to be used, for the primary purpose of serving through traffic to which the owners of abutting lands may have only limited or restricted rights or easements of access to or from their abutting lands and which may have grade separations at intersections.
(Prior code § 9206gg.)

19.08.160 Final map.

“Final map” means a map showing a subdivision for which a tentative and final map is required under Section 66426 of the Subdivision Map Act, prepared in accordance with the provisions of this title and the Subdivision Map Act and designed to be recorded in the office of the county recorder.
(Prior code § 9206j; Ord. 18750.)

19.08.170 Flood hazard.

“Flood hazard” means a potential danger to life, land or improvements due to water runoff having sufficient velocity to transport or deposit debris, to scour the surface soil, or to dislodge or damage buildings or erode the banks of watercourses.
(Prior code § 9206k.)

19.08.180 Freeway.

“Freeway” means a public right-of-way that is used, or intended to be used, for the primary purpose of serving through traffic to which the owners of abutting lands have no right or easement of access to or from their abutting lands.
(Prior code § 9206hh.)

19.08.190 Frontage.

“Frontage” means that portion of the boundary of a lot which abuts a street providing access to such a lot.
(Prior code § 9206l.)

19.08.200 Frontage road.

“Frontage road” means a street generally parallel and adjacent to a freeway or expressway which affords limited access to such freeway or expressway, and direct access to abutting property and/or minor streets.
(Prior code § 9206m.)

19.08.210 General plan.

“General plan” means the latest revised general plan for the city of San José.
(Prior code § 9206n.)

19.08.220 Geological hazard.

“Geological hazard” means any condition in earth, whether naturally occurring or artificially created, which is dangerous or potentially dangerous to life, property or improvement due to the movement, failure or shifting of earth.
(Prior code § 9206o.)

19.08.230 Hillside area - Map incorporated by reference.

“Hillside area” means the land so designated on the map entitled, “Hillside Area Map,” dated December 5, 1967, which map is hereby adopted and incorporated herein by reference, a copy of which said map is on file in the office of the city clerk, available for public inspection, reference to which said copy is hereby made.
(Prior code § 9206p.)

19.08.240 Improvement.

A. “Improvement” means street work and utilities, including drainage facilities and sanitary sewer facilities, to be installed or agreed to be installed by the subdivider within land to be used for public or private streets, pedestrian ways, alleys, ways, rights-of-way and easements as are necessary for the general use of the lot owners in the subdivision, and local neighborhood traffic, drainage and sanitary needs as a condition precedent to the approval and acceptance of the final map or parcel map. Such street work and utilities may include street grading and paving, portland cement concrete curbs and gutters, portland cement concrete sidewalks, portland cement concrete driveway approaches, ornamental fences and landscaping, where double frontage lots are approved, catch basins, sanitary sewer mains, laterals and appurtenances, street lights, including electrical conduits and cables, street name signs, fire hydrants, street trees, flood-control channels and facilities, and erosion-control structures.

B. “Improvement” shall also mean such specific improvements or types of improvements the installation of which, either by the subdivider, by public agencies, by private utilities, or by a combination thereof, is necessary or convenient to insure conformity to or implementation of the general and specific plans of the city of San José.
(Prior code § 9206q.)

19.08.250 Inundation.

“Inundation” means ponded water of sufficient depth or water in motion of sufficient depth to cause damage to person or property or to the public health, safety or welfare due to the mere presence of the water or to deposition of silt.
(Prior code § 9206r.)

19.08.260 Lot.

“Lot” means a parcel of land identified on a final or parcel map recorded in the office of the council recorder with a separate and distinct number or letter.
(Prior code § 9206s; Ord. 18570.)

19.08.270 Major street.

“Major street” means a street which is designated as a major collector or arterial on the land use transportation diagram of the approved general plan of the city of San José.
(Prior code § 9206ii; Ord. 19216.)

19.08.280 Minor street.

“Minor street” means a street that is used or is intended to be used for the primary purpose of providing access to abutting property and serving local as distinguished from through traffic.
(Prior code § 9206jj.)

19.08.290 Minor subdivision.

“Minor subdivision” means any subdivision composed of four or less lots or parcels.
(Prior code § 9206ss.)

19.08.300 One-way street.

“One-way street” means a street in which the movement of vehicular traffic is in one direction only.
(Prior code § 9206kk.)

19.08.310 Parcel.

“Parcel” means a separate piece of real property.
(Prior code § 9206t.)

19.08.320 Parcel map.

“Parcel map” means a map showing a subdivision for which a parcel map is required under Subdivision (a), (b), (c) or (d) of Section 66426 of the Subdivision Map Act, and other subdivisions for which a final map is not required under the Subdivision Map Act prepared in accordance with the provisions of this chapter and the Subdivision Map Act designed to be recorded in the office of the county recorder.
(Prior code § 9206u.)

19.08.330 Pedestrian way.

“Pedestrian way” means a right-of-way for the use of the public for pedestrian and bicycle traffic only.

(Prior code § 9206v.)

19.08.340 Planning department.

“Planning department” means the planning department of the city of San José.

(Prior code § 9206w.)

19.08.345 Remainder.

When a subdivision, as defined in Section 19.08.440, is of a portion of any unit or units of improved or unimproved land, the subdivider may designate as a remainder that portion which is not divided for the purpose of sale, lease, or financing.

For such a designated remainder parcel, the fulfillment of construction requirements for improvements shall not be required until such time as a permit or other grant of approval for development of the remainder parcel is issued by city or until such time as the construction of such improvements is required pursuant to an agreement between the subdivider and city. In the absence of such an agreement, city may require fulfillment of such construction requirements within a reasonable time following approval of the final map and prior to the issuance of a permit or other grant of approval for the development of a remainder parcel upon a finding by the city, that fulfillment of the construction requirements is necessary for reasons of:

1. The public health and safety; or
2. The required construction is a necessary prerequisite to the orderly development of the surrounding area.

(Ord. 22126.)

19.08.350 Roadway.

“Roadway” means that portion of a right-of-way for a street intended to accommodate the movement and parking (if allowed) of vehicles.

(Prior code § 9206x.)

19.08.360 Shall and may.

“Shall” is mandatory and “may” is permissive.

(Prior code § 9206y.)

19.08.370 Sight distance.

“Sight distance” means the contiguous length of street ahead visible to the driver.

(Prior code § 9206z.)

19.08.380 Slope easement.

“Slope easement” means an easement for cuts or fills which are required for the construction or maintenance of a street.

(Prior code § 9206aa.)

19.08.390 Split-level street.

“Split-level street” means a street which provides for vertical separation of vehicular traffic.

(Prior code § 9206ll.)

19.08.400 Standard specifications and details.

A. “Standard specifications” means the specifications entitled “standard specifications” and “standard details,” approved by resolution of the city council and which are applicable at the time of approval of the tentative map.

B. The standard specifications and standard details are incorporated herein by reference and prescribe the materials and workmanship to be used in the construction of improvements required under this Title 19.

(Prior code § 9206bb; Ord. 24108.)

19.08.410 Street.

“Street” means a public or private right-of-way, excluding freeways, whose primary function is to carry vehicular traffic.

(Prior code § 9206cc.)

19.08.420 Structural design.

“Structural design” means the determination of the thickness of subbases and pavements to be placed over basement soil.

(Prior code § 9206mm.)

19.08.430 Subdivider.

“Subdivider” means the person, individual, group of individuals, persons, firm or firms, corporation or corporations, association or associations, syndicate or syndicates, partnership or partnerships, or any other legal entity or entities, or any combination of the foregoing, who proposes to divide, divides or causes real property to be divided into a subdivision, as that term is defined in this chapter, for himself or others, except that employees and consultants of such persons or entities acting in such capacity are not subdividers.

(Prior code § 9206nn; Ord. 18570.)

19.08.440 Subdivision.

A. “Subdivision” means the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easements or railroad rights-of-way. “Subdivision” includes a condominium project, as defined in Section 1351 of the Civil Code, a community apartment project, as defined in Section 11004 of the Business and Professions Code, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in Section 11003.2 of the Business and Professions Code. Subdivision does not include:

1. Buildings divided into apartments, offices, stores or similar space within apartment buildings, industrial buildings, commercial buildings, mobilehome parks or trailer parks for the purpose of leasing or financing;
2. The financing or leasing of any parcel of land, or any portion thereof, in conjunction with the construction of commercial or industrial buildings on a single parcel, if such project is subject to review under other ordinances of city regulating design and improvement;
3. The financing or leasing of existing separate commercial or industrial buildings on a single parcel;
4. Land divided by mineral, oil or gas leases;
5. Land dedicated for cemetery purposes under the Health and Safety Code of the state;
6. Leases of agricultural land for agricultural purposes, that is, cultivation of food or fiber or the grazing or pasturing of livestock;
7. A lot line adjustment between four or fewer existing adjoining parcels where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not hereby created, provided the lot line adjustment is approved by the director. The review and determination of approval of the lot line adjustment is limited to whether or not the parcels resulting from the lot line adjustment will conform to the general plan, any applicable coastal plan, and zoning and building ordinances. No conditions or exactions shall be imposed on approval of a lot line adjustment except to conform to the general plan, any applicable coastal plan, or zoning and building ordinances. No requirement for the prepayment of real property taxes, or the relocation of existing utilities, infrastructure, or easements shall be required prior to the approval of the lot line adjustment. No tentative map, parcel map, or final map shall be required as a condition to the approval of a lot line adjustment. The lot line adjustment shall be reflected in a deed, which shall be recorded by the property owner. No record of survey shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code;

8. Land divided into four or less parcels for construction of removable commercial buildings having a floor area of less than one hundred square feet;

9. Any other exclusion cited in Section 66412 of the Subdivision Map Act.

B. Any conveyance of land to a governmental agency, public entity or public utility or subsidiary of a public utility for conveyance to such public utility for rights-of-way shall not be considered a division of land for purposes of computing the number of parcels.

C. "Subdivision" also includes a condominium project, as defined in Civil Code Section 1351, containing two or more condominiums, as defined in Civil Code Section 783, or a community apartment project, as defined in Business and Professions Code Section 11004, containing two or more parcels, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in Section 11003.2 of the Business and Professions Code.

D. Nothing in this section shall prevent a purchaser of a unit of land created under the provisions of the Subdivision Map Act or this title from subdividing such land one time, pursuant to the provisions of the Subdivision Map Act, prior to the time that an equalized county assessment roll has been completed reflecting the creation of the unit proposed to be subdivided. (Prior code § 920600; Ords. 18570, 19215, 22126, 26635.)

19.08.450 Subdivision Map Act.

"Subdivision Map Act" means the Subdivision Map Act of the state, Division 2 of Title 7 of the Government Code of the state of California.
(Prior code § 9206pp.)

19.08.460 Tentative map.

"Tentative map" means a map made for the purpose of showing the design and improvement of a proposed subdivision and the existing conditions in and around it, and need not be based upon an accurate or detailed final survey of the property.
(Prior code § 9206qq; Ord. 18570.)

19.08.470 Zoning ordinance.

"Zoning ordinance" means the zoning ordinance of the city of San José contained in Title 20 of this San José Municipal Code.
(Prior code § 9206rr.)

Endnotes

2 . For statutory definitions in the Subdivisions Map Act, see Gov. Code § 66414 et seq.

Chapter 19.12

TENTATIVE MAPS₃

19.12.010 Filing and processing requirements.

Any person proposing a subdivision of five or more lots, or four or less lots at the city engineer's direction, lying wholly or partially within the city of San José shall file with the director by depositing with the planning department twenty-five copies and reproducible transparency of a tentative map thereof. Upon receipt of such map an authorized member of the planning department shall stamp or write on each copy of the tentative map the date such map was received by the planning department, and shall return one copy of such map to the person who filed same. Such map shall thereafter be processed and approved, conditionally approved or disapproved by the director in accordance with the Subdivision Map Act and with the terms and provisions of this Title 19.

(Prior code § 9207; Ords. 22126, 26734.)

19.12.015 Concurrent filing - Tentative maps.

A. An application for a tentative map may be filed and processed concurrently with either:

1. A petition to rezone the property which is the subject of the tentative map application; or
2. Petitions to prezone and annex the subject property to the city.

B. When a tentative map application is filed concurrently pursuant to this chapter, the subdivider shall sign a statement acknowledging that the time limits for action by the director on the application as established by the Subdivision Map Act shall not commence until either:

1. The adoption date of the ordinance that rezones the property which is the subject of the tentative map application; or
2. The later effective date of:
 - a. An ordinance that prezones the subject property; or
 - b. A reorganization which annexes the subject property to the city.

C. A tentative map may be approved after final adoption of the ordinance rezoning the property, but shall contain a condition that no final map may be approved unless and until the referendum period has expired without challenge for the ordinance rezoning the property.
(Ords. 24245, 24546.)

19.12.020 Identity of subdivider - Statement required.

Whenever a tentative map is filed with the director, the subdivider shall be required to provide a statement indicating:

- A. That he is the owner of the property proposed for subdivision; or
- B. That he has an option or contract to purchase the property proposed for subdivision or the portion thereof which he does not own; or
- C. That he is the authorized agent of one who meets the requirements of subsection A. or B. of this section.
(Prior code § 9217.)

19.12.030 Preparation - Information to be shown.

Tentative maps which are required to be filed with the director shall be prepared under the direction of a licensed land surveyor or registered civil engineer, shall be clearly and legibly drawn to scale, shall be of such size and form as may be prescribed by the director, and shall clearly show and contain all of the following:

- A. The commercial name of the proposed subdivision and the subdivision tract number, if any has been assigned, placed in the lower right-hand corner of the map;
- B. The date and scale of the map, north point, and the approximate dimensions of the boundary of the subdivision;
- C. Sufficient description to permit the property embraced by the map to be located on the ground, including a key map drawn to a scale of five hundred feet to the inch, showing the property in relation to the adjacent land and adjacent public streets and freeways;
- D. The names and addresses of the record owner, the subdivider and the civil engineer or land surveyor under whose direction the map was prepared, including the registration number and telephone number of the engineer or surveyor;
- E. The names and/or numbers of adjacent subdivisions and the names of the record owners of unsubdivided property adjoining the proposed subdivision;
- F. The proposed use of the property being subdivided;
- G. A statement regarding existing and proposed zoning of the property being subdivided;
- H. The location of potentially dangerous areas within and adjacent to the proposed subdivision, including areas subject to stormwater overflow, inundation, flood hazard or geological hazard, the location, width and direction of flow of all watercourses and flood-control

channels, the location of culverts, and all natural or man-made drainage devices within and adjacent to the proposed subdivision;

I. The approximate location of all existing buildings on the property proposed to be subdivided which are to be retained in the subdivision;

J. The approximate location of any existing well or wells on the property proposed to be subdivided;

K. The approximate location and description of significant natural vegetation and trees, rock outcroppings, general slopes, natural drainage courses and other natural features within the proposed subdivision, together with an indication as to whether such features may be retained in the subdivision;

L. The approximate radius of each centerline or right-of-way line for streets in the proposed subdivision;

M. The approximate lot layout, the approximate dimensions of each lot, and an identifying number of each lot in the proposed subdivision;

N. The angle of intersecting streets if such angle deviates from a right angle by more than four degrees;

O. The width, purpose and approximate location of all existing easements or rights-of-way (other than for freeways, streets and alleys), whether public or private, within the proposed subdivision;

P. The location, name (if existing), width and approximate grade of existing and proposed easements or rights-of-way for freeways, streets and alleys, whether public or private and pedestrian ways within the proposed subdivision, together with typical cross-sections showing the proposed construction of proposed streets within the proposed subdivision, whenever such proposed construction does not accord with the standard cross-sections for right-way widths, roadway widths, sidewalk widths, planting strip widths and median widths for various streets contained in Section 19.36.030:

Q. If any streets or alleys shown on the tentative map are proposed to be private streets or alleys, they shall be clearly indicated, and there shall be submitted supplemental information to the city to show why such private streets or alleys should be approved by the city;

R. The source of water supply for domestic purposes and fire protection for the proposed subdivision;

S. The proposed method of sewage disposal and drainage for the proposed subdivision;

T. Contour lines showing one-foot contours for ground slopes of less than five feet vertical distance, and one hundred feet horizontal distance; and five-foot contours for ground slopes in

excess of five feet vertical distance, and one hundred feet horizontal distance. Contours of land adjacent to the proposed subdivision shall also be shown whenever the surface features of such land affect the design and/or improvement of the proposed subdivision. The source of contours shown on the map shall also be supplied;

U. Sufficient space, at least eight inches by eleven inches, for certificates, approvals, etc., shall be supplied; provided, however, that if it is impracticable to place upon the tentative map any matter required by this section, such matter or information shall be furnished in a written statement which shall be submitted with such map in the same number of copies as the tentative map;

V. Proposed public areas, such as school sites and park sites, within the proposed subdivision and on lands immediately adjacent thereto.
(Prior code § 9208.)

19.12.040 Application for environmental clearance required when.

No tentative map, except those affecting a division of land which is exempt from the EIR requirements of Title 21 of the San José Municipal Code, shall be accepted for filing with the director, by depositing the same with the planning department, unless it is accompanied by a completed application for environmental clearance in the form of application approved by the director.

(Prior code § 9207b.)

19.12.050 Grading plan and information on surrounding area.

Whenever a proposed subdivision embraces any hillside area or areas subject to inundation, the subdivider shall be required to file with the director, at the time of filing the tentative map, a preliminary grading plan covering the hillside area of the proposed subdivision or the area of the proposed subdivision subject to inundation. The plan shall be prepared by a civil engineer who is registered by the state of California, and shall indicate the existing and proposed topography and the cut-and-fill areas of said portions of the proposed subdivision, those existing structures to be retained within the proposed subdivision, and those existing structures outside the proposed subdivision within fifty feet of every part of the exterior boundaries of such proposed subdivision and such additional information in sufficient detail to enable the director to determine the feasibility of the proposed development and the relationship of the proposed subdivision to surrounding areas. The director may, except in cases of proposed subdivisions for which a final map is required by the Subdivision Map Act, waive the requirements of this section, if the director finds that application of this section to a proposed subdivision is unreasonable or impracticable because of the topography, size or shape, or proposed use of the land to be divided.
(Prior code § 9209.)

19.12.060 Preliminary geologic and/or soil report.

A. When Required. When the tentative map is filed, the director, on the advice of the city engineer, shall determine whether a preliminary geologic and/or soil report is required. If, due to

previous investigation or knowledge of the geologic conditions and soil qualities of the subdivision and adjacent territory, the director, on the advice of the city engineer, determines that no geologic hazards are present, no geologic and/or soil report will be required for the tentative map. If in the same manner, the director, on the advice of the city engineer, determines that uncorrectable geologic hazards are present, the tentative map shall be disapproved. If neither of the foregoing determinations can be made, the director shall require that a preliminary geologic and/or soil report be filed.

B. Preparation. The preliminary report shall be prepared by a civil engineer or engineering geologist who is registered by the state of California, specializing in the field of soil and geologic analysis. Geologic investigation shall be performed under the supervision of an engineering geologist registered and certified by the state, except that geologic investigation, not for the purpose of determining engineering data, may be supervised by a geologist registered by the state. Soil investigation shall be performed under the supervision of a civil engineer registered by the state specializing in the field of soil analysis.

C. Basis. The preliminary report shall be based on a field geologic and/or soil investigation of the proposed subdivision and such surrounding territory as may in the opinion of the director be necessary, and on an analysis of the design of the proposed subdivision and of the proposed and existing structures within said subdivision and such surrounding territory. Geologic and soil information shall be based on adequate test borings, excavations, earth tests, and/or such other investigations, analyses and sources of information as are necessary, in the opinion of the director, on the advice of the city engineer, to determine the presence or absence of geologic hazards.

D. Contents. The preliminary report shall determine the existence, potential existence or likelihood of any geologic hazards. If geologic hazards are found within or adjacent to the proposed subdivision, or may affect such subdivision, proposed or existing structures, or adjacent territory, such hazards shall be considered in the report. The said report shall include a geologic map which shall show the boundaries of the areas in which such hazards exist, and the report shall recommend corrective measures to mitigate such hazards. If critical geologic hazards exist on or adjacent to the proposed subdivision, the said report and the tentative map for which the report is submitted shall list, lot by lot, every lot within the proposed subdivision which the critical geologic hazards are likely to affect, if not corrected.

E. Action. The director shall act upon the preliminary report required within thirty days after such report is filed with him, and shall inform the subdivider of the results of such action.

F. Hazards Not Identified-Hazards Inadequately Investigated-Corrective Measures Inadequate. If the director, on the advice of the city engineer, finds that, contrary to the preliminary report, geologic hazards do exist, or that such geologic hazards exist and have not been adequately investigated, analyzed or located, or that recommended corrective measures may not mitigate such geologic hazards, he shall disapprove the tentative map and require the subdivider to file a new tentative map and geologic and/or soil report.

G. **Uncorrectable Hazards.** If the director, on the advice of the city engineer, determines that no corrective action will mitigate such geologic hazards, he shall disapprove the tentative map.

H. **Approval.** The director, on the advice of the city engineer, shall not approve any tentative map for a proposed subdivision for which a preliminary report has been required unless such report has been filed and unless he is satisfied that all geologic hazards have been adequately identified and analyzed, and that adequate corrective measures have been recommended where indicated. If he is so satisfied, he shall approve the tentative map, subject to the condition that, where geologic hazards have been identified, the subdivider shall take whatever action the director, on the advice of the city engineer, deems necessary to mitigate such hazards, and subject to the further condition that if, before the final map is recorded the director, on the advice of the city engineer, finds that geologic hazards not previously identified do exist, or that geologic hazards have not been adequately identified, analyzed or located, or that corrective measures may be inadequate or that uncorrectable geologic hazards exist, approval of the tentative map shall be deemed to have lapsed.

I. **Use.** When a preliminary geologic and/or soil report has been prepared, that fact shall be noted on the tentative map. Five copies of the said geologic and/or soil report shall be submitted to the director for review by the city and any other companies, officers, department, jurisdictions, agencies or bodies to which copies of the tentative map are sent for consideration pursuant to Section 19.12.090 and Section 19.12.120 of this chapter.
(Prior code § 9210.)

19.12.065 Conversion of mobilehome park.

At the time of filing a tentative map for a subdivision to be created from the conversion of a mobilehome park to a use which requires a conditional use permit pursuant to the provisions of Chapter 20.170 of the San José Municipal Code, the subdivider shall also file a report on the impact of the conversion upon the displaced residents of the mobilehome park to be converted. In determining the impact of the conversion on displaced mobilehome park residents, the report shall address the availability of adequate replacement space in mobilehome parks.

The subdivider shall make a copy of the report available to each resident of the mobilehome park at least fifteen days prior to the hearing on the map.

The subdivider may be required by the director or by the city council on appeal, to take steps to mitigate any adverse impact of the conversion on the ability of displaced mobilehome park residents to find adequate space in a mobilehome park.
(Ord. 22126.)

19.12.070 Final geologic and/or soil report.

A final geologic and/or soil report shall be compiled by the subdivider and submitted to the city engineer before the improvements required by the city for the subdivision are accepted. If no improvements are required by the city for the subdivision, the final geologic and/or soil report shall be filed before the final map or parcel map is recorded. The final geologic and/or soil report

shall consist of the preliminary geologic and/or soil report and any supplemental reports, amendments, revisions and reviews covering the geologic and/or soil conditions of the subdivision, including those previously required and prepared under Section 19. 12.060, or under Section 17.04.280, in Uniform Building Code subsection 7006(c), of the San José Municipal Code, or under Section 2622 and Section 2623 of Division 2 of the Public Resources Code of the state, or any ordinances subsequently enacted by the city pursuant to Chapter 7.5 of Division 2 of the Public Resources Code of the state.

(Prior code § 9210.1.)

19.12.080 Filing fee.

Upon the filing of a tentative map with the director, fees shall be paid to the city as set forth in the schedule of fees established by resolution of council, provided that no such fee shall be required for the filing of an amended tentative map.

(Prior code § 9207a; Ords. 20641, 21029, 21045, 21298.)

19.12.090 Distribution - Procedure generally.

Upon the filing of the required number of copies of the tentative map, an authorized member of the planning department shall forthwith transmit a copy of such map to the city engineer and such city, county and state officers or departments, public utility companies serving the areas embraced by the map and such other jurisdictions, agencies or bodies as may be designated by the director or as required by the Subdivision Map Act, together with a request for a report and recommendation thereon to be returned to the director by filing with the planning department not later than fifteen days from the date said tentative map is received by such city engineer or company, officer, department, jurisdiction, agency or body. Failure of the city engineer or any company, officer, department, jurisdiction, agency or body to which such map was transmitted to submit such a report or recommendation within such fifteen-day period shall mean that the city engineer or such company, officer, department, jurisdiction, agency or body has no report or recommendation to submit concerning such tentative map. Any reports or recommendations on a tentative map by the staff of the city of San José made to the director or to the city council on appeal, shall be in writing, and a copy thereof shall be served personally or by mail on the subdivider and his engineer and on each tenant of the subject property in the case of a proposed conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, at least three days prior to any hearing or action on the tentative map by the director.

(Prior code § 9211; Ord. 22126.)

19.12.100 Distribution - To schools and school districts.

Within ten days of the filing of a tentative map as provided in Section 19.12.010, an authorized member of the planning department shall send a notice of the filing of the tentative map to the governing board of any elementary, high school or unified school district within the boundaries of which the subdivision is proposed to be located. Such notice shall also contain information about the location of the proposed subdivision, the number of units, density, and any other information which would be relevant to the affected school district. Such governing board

may review the notice and may send a written report thereon to the director. If a written report is made by the governing board, the report shall indicate the impact of the proposed subdivision on the affected school district and shall make such recommendations as the governing board of the district deems appropriate. If a written report is made by the governing board, such report shall be returned within twenty working days of the date on which the notice was mailed to the school district for comment. In the event that the governing board of any such district fails to respond within the twenty-day period, such failure to respond shall be deemed approval of the proposed subdivision.

(Prior code § 9211a; Ord. 18570.)

19.12.110 Evaluation of environmental impact.

Upon the filing of a tentative map, as provided in Section 19.12.010, the director shall, if the proposed subdivision shown on the map is a land project as defined by Section 11000.5 of the Business and Professions Code of the state, and in other cases may, prior to approval of the tentative map, submit the map to the Office of Intergovernmental Management pursuant to Section 12037 of the Government Code, and request an evaluation of the environmental impact of the proposed sub division.

(Prior code § 9211.1.)

19.12.120 Consideration by director - Notice - Hearing authorized when.

A. An authorized representative of the director shall notify the subdivider or his representative of the date on which the director shall consider the tentative map. At the time fixed for the consideration of the tentative map, the director shall consider the reports and recommendations, if any, of the city engineer, companies, officers, departments, jurisdictions, agencies or bodies to which the copies of the tentative map were sent.

B. A public hearing shall be held whenever the approval of the tentative map by director would constitute a substantial or significant deprivation of property rights of other land owners. In addition, thereto, director at his discretion, may hold public hearings on the consideration of any tentative map. Notice of such hearings shall be given in the time and manner provided in Section 66451.3 and Section 66451.4 of the Subdivision Map Act.

C. Director shall approve, conditionally approve, or disapprove the tentative map and shall report such action to the subdivider in accordance with Section 66452.1 of the Subdivision Map Act.

(Prior code § 9212; Ord. 22126.)

19.12.130 Action by director - Conditions for approval or disapproval.

A. Within fifty days after the tentative map has been filed with the director, or within such additional time as is mutually agreed upon by the director and the subdivider, the director shall report in writing on the map submitted to him, and the report shall approve, conditionally approve or disapprove the tentative map at the public hearing or action held thereon. The director shall report his action directly to the subdivider, and in the event of disapproval, the reasons

therefor. The director shall not approve any tentative map for any subdivision (except for the conversion of an existing building into a condominium project or stock cooperative, unless new units are being added) unless the director has found that the proposed subdivision, together with the provisions for its design and improvement, as shown on the tentative map approved by the director, subject to the conditions imposed thereon by the director, is consistent with the applicable general and specific plans of the city. The director shall not approve the tentative map of any subdivision (except for the conversion of an existing building into a condominium project or stock cooperative, unless new units are being added) if the director makes any of the findings described in Section 66474 of the Subdivision Map Act. The director shall not approve any tentative map which covers a category or project not exempt from the EIR requirements of Title 21 of the San José Municipal Code, or not previously found by the director to have no significant effect on the environment, unless there has been filed with the director:

1. A negative declaration, meeting in all respects the requirements of Title 21 of the San José Municipal Code, finding that the proposed subdivision would not have a significant effect upon the environment which declaration has been filed at least ten days before action is taken by the director with reference to the tentative map with the county clerk of the county of Santa Clara, to which declaration no written protest has been filed in accordance with Section 21.32.100 of this code, or in the event it has, such protest has not been sustained by the commission after a hearing as prescribed by said Section 21.32.100; or

2. A final environmental impact report prepared in accordance with the procedures set forth in Title 21 of this code, meeting in every respect all the requirements of said Title 21, covering the proposed subdivision will or will not have a significant effect on the said environment, which report is accompanied:

- a. By the director's certification that the said report has been completed in compliance with the California Environmental Quality Act of 1970, as amended, the state guidelines and said Title 21, and

- b. By the director's statement that he has reviewed and considered the information contained in the said report.
(Prior code § 9213; Ord. 22126.)

19.12.140 Rivers and streams - Dedication - Access requirements.

A. Notwithstanding any of the provisions of Section 19.12.130, the director shall not approve any tentative map of any proposed nonindustrial subdivision for which a final map is required under the Subdivision Map Act, to be fronted upon a public waterway, river or stream which does not provide or have available, reasonable public access by fee or easement from a public highway to that portion of the bank of the river or stream bordering or lying within the proposed subdivision.

B. Reasonable public access shall be determined by the director. In making the determination of which shall be reasonable access, the director shall consider all of the following:

1. That access may be by public high. way, foot trail, bike trail, horse trail or any other means of travel;

2. The size of the proposed subdivision:

3. The type of riverbank and the various appropriate recreational, educational and scientific uses including, but not limited to, swimming, boating, fishing, water skiing, scientific collection and teaching;

4. The likelihood of trespass on private property and reasonable means of avoiding such trespasses.

C. A “public waterway, river or stream,” for the purposes of Sections 19.13.130, 19.12.140, 19.12.150 and 19.12.160, means those waterways, rivers and streams defined in Sections 100 through 106 of the Harbors and Navigation Code, any stream declared to be a public highway, for fishing, pursuant to Sections 25660 through 25662 of the Government Code, the rivers listed in Section 1505 of the Fish and Game Code as spawning areas, and waterways, rivers and streams downstream from any state or federal salmon or steel. head fish hatcheries.
(Prior code § 9213.1.)

19.12.150 Rivers and streams - Dedication - Easement requirements.

A. Notwithstanding any of the provisions of Section 19.12.130, the director shall not approve a tentative map of any proposed nonindustrial subdivision for which a final map is required under the Subdivision Map Act, to be fronted upon a public Waterway, river or stream which does not provide for a dedication of a public easement along a portion of the bank of the river or stream bordering or lying within the proposed subdivision.

B. The extent, width and character of the public easement shall be reasonably defined to achieve reasonable public use of the public waterway, river or stream consistent with public safety. The reasonableness and extent of the easement shall be determined by the director. In making the determination for reasonably defining the extent, width and character of the public easement, the director shall consider all of the following:

1. That the easement may be for a foot trail, bicycle trail or horse trail;

2. The size of the proposed subdivision;

3. The type of riverbank, and the various appropriate recreational, educational and scientific uses including, but not limited to, swimming, diving, boating, fishing, water skiing, scientific collection and teaching;

4. The likelihood of trespass on private property and reasonable means of avoiding such trespasses.

(Prior code § 9213.2.)

19.12.160 Rivers and streams - Access routes and easements to be shown.

Any public access route or routes and any easement along the bank of a public waterway, river or stream provided by the subdivider shall be expressly designated on the tentative and final subdivision map, and such maps shall expressly designate the governmental entity to which such route or routes and easements are dedicated, and the final map shall indicate whether such dedications have been accepted. The acceptance by any such governmental entity of any such dedication shall occur within three years of the approval of the final subdivision map at which time, unless accepted, such dedication shall be deemed abandoned.

(Prior code § 9213.3.)

19.12.170 Access routes outside subdivisions.

Nothing in Sections 19.12.140, 19.12.150 or 19.12.160 shall require the director to disapprove a tentative subdivision map solely on the basis that the reasonable public access otherwise required by Sections 19.12.140 and 19.12.150 is not provided through or across the subdivision itself, if the director makes a finding that such reasonable public access is otherwise available within a reasonable distance from the proposed subdivision. Any such finding shall be set forth on the face of the final subdivision map.

(Prior code § 9213.4.)

19.12.180 Coastlines and shorelines - Access requirements.

A. Notwithstanding any of the provisions of Section 19.12.130, the director shall not approve any tentative map of any proposed subdivision for which a final map is required under the Subdivision Map Act, fronting upon the coastline or shoreline, which proposed subdivision does not provide or have available reasonable public access by fee or easement from public highways to land below the ordinary high. water mark on any ocean coastline or bay shoreline within or at a reasonable distance from the proposed subdivision.

B. Any public access route or routes provided by the subdivider shall be expressly designated on the tentative and final subdivision map, and such maps shall expressly designate the governmental entity to which such route or routes are dedicated, and the final map shall indicate whether such dedications have been accepted. The acceptance by any such governmental entity of any such dedication must occur within three years of the approval of the final subdivision map, after which time, unless accepted, such dedication shall be deemed abandoned.

C. "Reasonable public access," as used in this section, shall be determined by the director.

D. In making the determination of what shall be reasonable public access, the director shall consider:

1. That access may be by public highway, foot trail, bicycle trail, horse trail, or any other means of travel;

2. The size of the proposed subdivision;

3. The type of coastline or shoreline and the various appropriate recreational, educational and scientific uses including, but not limited to, diving, sunbathing, surfing, walking, swimming, fishing, beachcombing, taking of shellfish and scientific exploration;

4. The likelihood of trespass on private property and reasonable means of avoiding such trespasses.

E. Nothing in this section shall require the director to disapprove a tentative subdivision map solely on the basis that the reasonable public access otherwise required by this section is not provided through or across the subdivision itself if the director makes a finding that such reasonable public access is otherwise available within a reasonable distance from the proposed subdivision. Any such finding shall be set forth on the face of the final subdivision map.

F. The provisions of this section shall not apply to the final or tentative map of any subdivision which is in compliance with the plan of any planned development or any planned community which has been approved by the city prior to December 31, 1968.

G. Nothing in this section shall be construed as requiring the subdivider to improve any access route or routes which are primarily for the benefit of nonresidents of the subdivision area.

H. Any access route or routes provided by the subdivider pursuant to this section may be conveyed or transferred to any state or local agency by the governmental entity to which such route or routes have been dedicated, at any future time, by mutual consent of such governmental entity and the particular state or local agency. Such conveyance or transfer shall be recorded by the recipient state or local agency in the office of the county recorder of the county in which such route or routes are located.

(Prior code § 9213.5.)

19.12.190 Lakes and reservoirs - Access requirements.

A. Notwithstanding any of the provisions of Section 19.12.130, the director shall not approve any tentative map of any proposed subdivision for which a final map is required under the Subdivision Map Act, fronting upon any lake or reservoir which is owned, in part or entirely by any public agency, including the state, which proposed subdivision does not provide or have available reasonable access by fee or easement from public highways to any water of the lake or reservoir upon which the proposed subdivision borders, either within the proposed subdivision or a reasonable distance from the proposed subdivision.

B. Any public access route or routes provided by the subdivider shall be expressly designated on the tentative and final subdivision map, and such maps shall expressly designate the governmental entity to which such route or routes are dedicated, and the final map shall indicate whether such dedications have been accepted. The acceptance by any such governmental entity of any such dedication shall occur within five years of the approval of the final subdivision map, at which time, unless accepted, such dedication shall be deemed abandoned.

C. “Reasonable access,” as used in subsections A and B of this section, shall be determined by the director.

D. In making the determination of what shall be reasonable access, the director shall consider:

1. That access may be by public highway, foot trail, bicycle trail, horse trail, or any other means of travel;

2. The size of the proposed subdivision;

3. The type of shoreline and the various appropriate recreational, educational and scientific uses including, but not limited to, swimming, diving, boating, fishing, water skiing, scientific exploration and teaching;

4. The likelihood of trespass on private property and reasonable means of avoiding such trespasses.

E. Nothing in this section shall require the director to disapprove either a tentative or final subdivision map solely on the basis that the reasonable access otherwise required by this section is not provided through or across the subdivision itself if the director makes a finding that such reasonable access is otherwise available within a reasonable distance from the proposed subdivision. Any such finding shall be set forth on the face of the final subdivision map.

F. Any access route or routes provided by the subdivider pursuant to this section may be conveyed or transferred to any state or local agency by the governmental entity to which such route or routes have been dedicated, at any future time, by mutual consent of such governmental entity and the particular state or local agency. Such conveyance or transfer shall be recorded by the recipient state or local agency in the office of the county recorder of the county in which such route or routes are located.

(Prior code § 9213.6.)

19.12.200 Improvement of access routes.

Nothing in Sections 19.12.140 through 19.12.190 shall be construed as requiring the subdivider to improve any route or routes which are primarily for the benefit of nonresidents of the subdivision area or nonowners of the real property in question.

(Prior code § 9213.6a.)

19.12.210 Waste discharge limitation.

Notwithstanding any of the provisions of Section 19.12.130, the director shall not approve any tentative map of any proposed subdivision, unless the director shall determine whether the discharge waste from such proposed subdivision, subject to the conditions imposed thereon by the director, into an existing community sewer system would result in violation of existing, requirements prescribed by California Regional Water Quality Control Board, pursuant to Division 7 (commencing with Section 1300) of the Water Code. In the event that the director finds that the proposed waste discharge would result in or add to violation of requirements of such board, the director may disapprove the tentative map of the subdivision.
(Prior code § 9213.7.)

19.12.220 Disapproval of tentative map authorized when.

The director may disapprove a tentative map because of design, flood hazard, inundation, lack of adequate access, lack of adequate water supply or fire protection, insufficient sewerage or drainage facilities, geological hazards, when the only practical use which can be made of the property thereon is a use prohibited by any ordinance, statute, law or other valid regulation, or because of failure to comply with the requirements of the Subdivision Map Act or of this Title 19.
(Prior code § 9214.)

19.12.230 Appeal to council.

If the subdivider or any interested person is dissatisfied with any action of the director with respect to the tentative map, he may, within ten days after such action, appeal to the city council in accordance with the provisions of the Subdivision Map Act. Any interested person adversely affected by a decision of the director with respect to a tentative map may file a complaint with the city council concerning any decision of the director within ten days after the action of the director which is the subject of the complaint. A public hearing shall be conducted on appeals or complaints provided for in this section. Notice thereof shall be given in the time and manner provided in Sections 66451.3 and 66451.4 of the Subdivision Map Act.
(Prior code § 9215; Ord. 22126.)

19.12.240 Filing time for amended tentative maps.

The subdivider may file an amended tentative map with the director before his original tentative map has been considered by the director. Such filing of an amended tentative map shall be construed to be a withdrawal of the original tentative map. The time within which such amended tentative map shall be considered and reported on by the director shall run from the time such amended tentative map is filed with the director.
(Prior code § 9216.)

Endnotes

3. For statutory provisions on maps generally, see Gov. Code § 66425 et seq.; for provisions on tentative maps, see gov. Code § 66452 et seq.

Chapter 19.13

VESTING TENTATIVE MAPS

19.13.010 Consistency.

No land shall be subdivided and developed pursuant to a vesting tentative map for any purpose which is inconsistent with the general plan, or any applicable specific plan, or not permitted by Title 20 or other applicable provisions of this code.
(Ord. 22152.)

19.13.020 Definitions.

A. A “vesting tentative map” shall mean a “tentative map” for a subdivision, as defined in this title, that shall have printed conspicuously on its face the words “Vesting Tentative Map” at the time it is filed in accordance with Section 19.13.040, and is thereafter processed in accordance with the provisions hereof. For the purposes of this chapter, “vesting tentative map” shall include vesting tentative maps prepared in connection with a parcel map.

B. All other definitions set forth in this title are applicable.
(Ord. 22152.)

19.13.030 Applications.

A. Until January 1, 1988, this chapter shall apply only to residential developments.

B. Whenever a provision of the Subdivision Map Act, as implemented and supplemented by this title, requires the filing of a tentative map or tentative parcel map for a development, a vesting tentative map may instead be filed, in accordance with the provisions hereof.

C. If a subdivider does not seek the rights conferred by the vesting tentative map statute, the filing of a vesting tentative map shall not be a prerequisite to any approval for any proposed subdivision, permit for construction, or work preparatory to construction.
(Ord. 22152.)

19.13.040 Procedures.

A. A vesting tentative map shall be filed in the same form, have the same contents, accompanying data and reports, shall be processed in the same manner as set forth in this title for a tentative map, and shall be subject to all applicable requirements of Title 19, except that the vested tentative map shall also be governed by the following provisions:

1. At the time a vesting tentative map is filed, it shall have printed conspicuously on its face the words “Vesting Tentative Map.”

2. At the time a vesting tentative map is filed, a subdivider shall also submit concurrently a complete application for all other discretionary project approvals for the proposed development project required by this code which shall be processed concurrently with the tentative map except as otherwise provided herein.

3. The provisions of Section 19.40.070 shall apply to the processing of, and action which may be taken on, tentative maps based upon the PD zoning of the lands covered by such tentative map.

4. A vested tentative map application filed concurrently with a site development permit application shall be governed by the following provisions: Proceeding may be taken on the vested tentative map notwithstanding that the site development permit has not been issued and become effective; provided, however, that prior to the time that such a site development permit shall have been issued and the action issuing the same shall have become final, neither the director, nor the council on appeal, shall approve or conditionally approve such vested tentative map.

5. If no other discretionary project approvals are required by this code, the subdivider shall, at the time a vesting tentative map is filed, supply the following information:

- a. Building envelope including dimensions, height, size, setbacks and location of buildings;
- b. Preliminary grading plan and approximate finished grade of each building pad;
- c. Building elevations;
- d. Number of dwelling units.

6. The director may, but shall not be required to, exempt the subdivider from the foregoing requirements. The director may require such other drawings, data or other information as deemed necessary to accomplish the purposes of this title and the Subdivision Map Act.

7. Each structure shall be constructed at the location and cover the surface area designated on the vested tentative map and shall be constructed in substantial compliance with the information provided therein.
(Ord. 22152.)

19.13.050 Fees.

Fees for the vesting tentative map shall be set forth in the schedule of fees established by resolution of the city council, which schedule shall also include a fee in an amount sufficient to recover the direct cost associated with establishing and adopting this chapter.
(Ord. 22152.)

19.13.060 Expirations.

The approval or conditional approval of a vesting tentative map shall expire at the end of the same time period, and shall be subject to the same extensions, established by this title for the expiration of the approval or conditional approval of a tentative map.
(Ord. 22152.)

19.13.070 Development rights - Vesting on approval of vesting tentative map.

A. The approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Government Code Section 66474.2.

However, if Section 66474.2 of the Government Code is repealed, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.

B. Notwithstanding subsection A, any permit, including a building permit, approval, extension, or entitlement may be made conditional or denied if any of the following are determined:

1. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.

2. The condition or denial is required, in order to comply with state or federal law.

C. The rights referred to herein shall expire if a final map is not approved prior to the expiration of the vesting tentative map as provided in Section 19.13.060. If the final map is approved, these rights shall last for the following periods of time:

1. An initial time period of one year. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, this one-year initial time period shall begin for each phase when the final map for that phase is recorded. All of said final maps or parcel maps must be recorded within the time period set forth in Section 19.13.060 or the vesting tentative map approval shall expire for those parcels for which final maps or parcel maps are not timely recorded.

2. The initial time period set forth in C 1 shall be automatically extended by any time used for processing a complete application for a grading permit if such processing exceeds thirty days from the date a complete application is filed.

3. A subdivider may apply to the director for a one-year extension at any time before the initial time period set forth in C1 expires. If the extension is denied, the subdivider may appeal that denial to the city council within fifteen (15) days.

4. If the subdivider submits a complete application for a building permit during the periods of time specified in 1 through 3 above, the rights referred to herein shall continue until the expiration of that permit, or any extension of that permit.
(Ord. 22152.)

19.13.080 Development rights - Development inconsistent with zoning - Conditional approval.

A. Whenever a subdivider files a vesting tentative map for a subdivision whose intended development is inconsistent with the provisions of Title 20, that inconsistency shall be noted on the map. The director may deny such a vesting tentative map or approve it conditioned on the subdivider, or his or her designee, obtaining the necessary change in Title 20 to eliminate the inconsistency. If the change in Title 20 is obtained, the approved or conditionally approved vesting tentative map shall, notwithstanding Section 19.13.070, confer the vested right to proceed with the development in substantial compliance with the change in said Title 20 and the map, as approved.

B. The rights conferred by this section shall be for the time periods set forth in Section 19.13.070C.
(Ord. 22152.)

19.13.090 Amendment to vesting tentative map.

At any time prior to the expiration of the vesting tentative map, the subdivider may apply for an amendment to the vesting tentative map. Amendments shall not extend the time period of vesting rights established in this chapter, nor the expiration date of the tentative map. The provisions of Section 19.12.240 shall not apply to vested tentative maps.
(Ord. 22152.)

19.13.100 Application with other provisions of this code.

Whenever this chapter conflicts with other provisions of this code, the provisions of this chapter shall apply.
(Ord. 22152.)

Chapter 19.16

FINAL MAPS AND PARCEL MAPS ₄

19.16.010 Filing and processing requirements.

A. Each final map or parcel map shall be processed and approved or disapproved in accordance with the requirements of this chapter and the Subdivision Map Act.

B. A tentative and final map shall be required for all subdivisions creating five or more parcels, five or more condominiums as defined in Section 783 of the Civil Code, a community apartment project containing five or more parcels, or for the conversion of a dwelling to a stock cooperative containing five or more dwelling units, except where:

1. The land before division contains less than five acres, each parcel created by the division abuts upon a maintained public street or highway and no dedications or improvements are required by the legislative body; or

2. Each parcel created by the division has a gross area of twenty acres or more and has an approved access to a maintained public street or highway; or

3. The land consists of a parcel or parcels of land having approved access to a public street or highway which comprises part of a tract of land zoned for industrial or commercial development, and which has the approval of the city council as to street alignments and widths; or

4. Each parcel created by the division has a gross area of not less than forty acres or is not less than a quarter of a quarter section.

C. A parcel map shall be required for those subdivisions described in paragraphs B.1, 2, 3 and 4 herein and for other subdivisions for which a final map is not required under the Subdivision Map Act. A tentative and parcel map may be required for those subdivisions described in paragraphs B.1, 2, 3 and 4 herein for which the city engineer has determined that such maps are necessary to protect or preserve the public health, safety or welfare in accordance with Section 19.12.010.

(Prior code § 9218; Ords. 22126, 26734.)

19.16.020 Final map - Filing and recordation.

A. Within thirty months after the approval or conditional approval by the director of a tentative map showing subdivision for which a final map is required under Section 66426 of the Subdivision Map Act, the subdivider may cause the proposed subdivision or any part thereof, to be accurately surveyed and a final map thereof prepared in accordance with the tentative map as approved for recordation, and the original final map, together with as many copies thereof as are required by the city engineer.

B. Failure to file such map with the city engineer within said period and to have said map recorded in the office of the county recorder within thirty months after the date of approval or conditional approval of the tentative map shall automatically terminate all proceedings and a new tentative map must thereafter be submitted for processing. The time within which such filing and recording of a final map must take place may, upon written application of the subdivider, be extended by the director or the city council on appeal for a period not exceeding two years. Each application for such extension shall be accompanied by a processing fee in the amount set forth in the schedule of fees established by resolution of council. In the event the director denies a subdivider's application for extension, the subdivider may appeal to the city council within fifteen days after such denial.

C. The period of time specified in subsections A. and B. above, shall not include any period of time during which a water or sewer moratorium, imposed after approval of the tentative map, is in existence; provided however, that the length of such moratorium does not exceed five years. Once such a moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed; provided, however, that if such remaining time is less than one hundred twenty days, the map shall be valid for one hundred twenty days following the termination of the moratorium.

D. The period of time specified in subsections A. and B. shall not include any period of time during which a lawsuit has been filed and is pending in a court of competent jurisdiction involving the approval or conditional approval of a tentative map if a stay of such time period is approved by the city pursuant to this section. Within ten days of the service of the initial petition or complaint in such lawsuit upon the city, the subdivider may apply in writing to the director for a stay. Within forty days after receiving such application, the director shall either stay the time period for up to five years or deny the requested stay. Any such denial may be appealed in accordance with the procedure set forth in Section 19.12.230 of this chapter.
(Prior code § 9219; Ords. 21035, 21051, 21298, 22126, 26386.)

19.16.030 Parcel map - Filing and recordation.

A. Within thirty months after the approval or conditional approval by the director of a tentative map showing a subdivision for which a parcel map is required under Section 19.16.010 above, the subdivider shall cause a parcel map thereof complying with the provisions of this title and of the Subdivision Map Act to be prepared, in accordance with the tentative map as approved for recordation of the original parcel map, together with as many copies thereof as are required by the city engineer to be filed with the city engineer.

B. Failure to have such map recorded in the office of the county recorder within thirty months after the date of approval or conditional approval of the tentative map shall automatically terminate the proceedings, and a new tentative map must be thereafter submitted for processing. Upon application of the subdivider, an extension of the approval of the tentative map not to exceed two years may be granted by the city council or the director. In the event the director denies a subdivider's application for extension, the subdivider may appeal to the city council within fifteen days after such denial.

C. The period of time specified in subsection B. shall not include any period of time during which a water or sewer moratorium, imposed after approval of the tentative map, is in existence; provided, however, that the length of such moratorium does not exceed five years. Once such a moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed; provided, however, that if such remaining time is less than one hundred twenty days, the map shall be valid for one hundred twenty days following the termination of the moratorium. This subdivision shall apply to a tentative map approved or conditionally approved prior to January 1, 1978, including any map which has expired during a moratorium which was imposed on or after April 1, 1977.

D. The period of time specified in subsections A. and B. shall not include any period of time during which a lawsuit has been filed and is pending in a court of competent jurisdiction involving the approval or conditional approval of a tentative map if a stay of such time period is approved by city pursuant to this section. Within ten days of the service of the initial petition or complaint in such lawsuit upon the city, the subdivider may apply in writing to the director for a stay. Within forty days after receiving such application, the director shall either stay the time period for up to five years or deny the requested stay. Any such denial may be appealed in accordance with the procedure set forth in Section 19.12.230 of this chapter. (Prior code § 9220; Ords. 19215, 22126.)

19.16.040 Parcel map - Waiver of submittal authorized when.

The director may waive the requirement of submission of a parcel map for subdivisions for which a parcel map is required under subdivisions (a), (b), (c) or (d) of Section 66426 of the Subdivision Map Act and other subdivisions for which a final map is not required under the Subdivision Map Act, if the director finds that the proposed division of land complies with the legal requirements as to area, improvement and design, flood and water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection and other requirements of the Subdivision Map Act and this title which are applicable to the division of such land. Whenever a parcel map is waived under this section, a tentative map is required pursuant to the provisions of Government Code Section 66428. (Prior code § 9220.1; Ord. 22126.)

19.16.050 Final map or parcel map - Form.

Each final map or parcel map shall conform to all the requirements of this title and of the Subdivision Map Act applicable at the time of approval of the tentative map. The final map or parcel map shall conform to the approved or conditionally approved tentative map (if any is required), shall be prepared by a registered civil engineer or licensed land surveyor, shall be drawn to a scale large enough to show the details on the map clearly (one hundred feet to the inch or larger or such smaller scale as is approved by the city engineer) and more than one sheet shall be used if necessary to furnish sufficient space. (Prior code § 9221.)

19.16.060 Final map or parcel map - Sheet size and margins.

Each sheet of the final map or parcel map shall be eighteen inches by twenty-six inches in size. A marginal line shall be drawn on all four sides of the map leaving a one inch blank margin. (Prior code § 9222.)

19.16.070 Final map or parcel map - Materials required for permanent record.

Each sheet of the final map or parcel map shall be legibly drawn, printed or reproduced by a process guaranteeing a permanent record in black on tracing cloth of good quality (or a polyester base film) except for signatures, which must be original. If ink is used on polyester base film, the surface shall be coated with a suitable substance to assure permanent legibility. (Prior code § 9223.)

19.16.080 Final map or parcel map - Title sheet requirements.

The title sheet of each final map or parcel map shall contain a title consisting of the tract number and name, if any, conspicuously placed at the top of the sheet followed by the words "Consisting of _____ Sheets" showing the number thereof. The title shall also indicate whether the subdivision lies wholly or partly within the city of San José, and if partly in another city or cities, or in the unincorporated area of a county or counties, such fact shall be so indicated on the title sheet. The title sheet shall also contain a subtitle giving a general description of the property being subdivided by reference to maps which have been previously recorded or by reference to the plat of any United States survey. Each reference in such description to any tract or subdivision shall be spelled out and worded identically with the original recorded material on which such reference is based and complete references to the book and page of such recorded data in the office of the county recorder must be shown. (Prior code § 9224.)

19.16.090 Final map or parcel map - Identification of individual sheets.

Each sheet of the final map or parcel map shall bear the title of the map, the sheet number and the relation of one sheet to another, the scale of the map and a North point. (Prior code § 9225.)

19.16.100 Maps showing only portions of tentative map.

The city engineer or the city council on appeal may refuse to approve for recording a final map showing only a portion of a tentative map when it finds it will not be feasible from an engineering standpoint to construct satisfactory improvements in the reduced area unless additional street or easement dedication and improvements are required and provided. The city engineer may refuse to approve for recording a parcel map showing only a portion of a tentative map when he finds it will not be feasible from an engineering standpoint to construct satisfactory improvements in the reduced area unless additional street or easement dedications and improvements are required and provided. (Prior code § 9226; Ord. 26386.)

19.16.110 Final map - Information to be shown.

The final map shall show and contain all of the following data:

- A. It shall be legibly drawn, printed or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. Certificates may be legibly stamped or printed upon the maps with opaque ink. If ink is used on polyester base film, the ink surface shall be coated with a suitable substance to assure permanent legibility.
- B. The size of each sheet shall be eighteen by twenty-six inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one inch. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish the end. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown.
- C. The date and scale of map, north point, and the dimensions of the boundaries. The exterior boundary of the land included within the subdivision shall be indicated by a blue-colored border. The definite location of the subdivision and particularly its relation to surrounding surveys.
- D. The names of the record owner, all parties having record title interest and the civil engineer or licensed land surveyor under whose direction the map was prepared, including the registration number of the engineer or surveyor.
- E. City boundaries which cross or adjoin the subdivision shall be clearly designated and located in relation to the subdivision.
- F. The location, width and purpose of all existing and proposed easements or rights-of-way (other than freeways, streets, alleys and pedestrian ways), whether public or private, within the proposed subdivision.
- G. The location, name (if existing), width and purpose of existing and proposed easements or rights- of-way for freeways, streets, alleys and pedestrian ways within the proposed subdivisions.
- H. Lots shall be numbered and continue without omission or duplication throughout the subdivision. No prefix or suffix nor combination of letter and number shall be used. Each lot shall be shown entirely on one sheet unless such requirement is waived by the city engineer.
- I. The location of a designated remainder parcel shall be indicated, but need not be indicated as a matter of survey but only by deed reference to the existing boundaries of such remainder, if such remainder has a gross area of five acres or more.
- J. The names and/or numbers of adjacent subdivisions and the names of the record owners of unsubdivided property adjoining the proposed subdivision.

K. All dimensions, both linear and angular, for locating the boundaries of the property, lots, streets, rights-of-way and easements within the subdivision and building setback lines adjacent to the proposed and existing streets within the subdivision, except that building setback lines shall not be required to be shown on the final map covering hillside areas. Linear dimensions shall be expressed in feet and decimals of a foot. Angular dimensions shall be expressed in degrees, minutes and seconds.

L. The location of all permanent and proposed monuments, together with a description indicating their size. If any survey points were reset by reference points, that fact shall be stated.

M. The location of any watercourse, channel, stream or creek adjoining or within the proposed subdivision.

N. The existence of a soils report, a geologic report or soils and geologic reports required by this chapter or prepared specifically for the subdivision, together with the date of such report or reports, the name of the engineer making the soils report and geologist making the geologic report, a copy of which said report or reports shall be kept on file in the office of the city clerk for public inspection.

O. The approximate location of any known potentially active fault zone within the proposed subdivision.

P. In the event that an owner's development lien has been created pursuant to the provisions of Article 2.5 (commencing with Section 39327) of Chapter 3 of Part 23 of the Education Code on the real property or portion thereof subject to the final map, a notice shall be placed on the face of the final map specifically referencing the book and page in the county recorder's office in which the resolution creating the owner's development lien was recorded. The notice shall state that the property subdivided is subject to an owner's development lien and that each parcel created by the recordation of the final map shall be subject to a prorated amount of the owner's development lien on a per acre or portion thereof basis.

Q. Certificate stating that all the monuments are of the character and occupy the positions indicated, or that they will be set in such positions on or before a specified later date. The certificate shall also state that the monuments are, or will be, sufficient to enable the survey to be retraced.

(Prior code § 9228; Ords. 19629, 22126.)

19.16.120 Parcel Map - Information to be shown.

The parcel map shall show and contain all of the following data:

A. It shall be legibly drawn, printed or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. Certificates may be legibly stamped or printed upon the maps with opaque ink. If ink is used on polyester base film, the ink surface shall be coated with a suitable substance to assure permanent legibility;

- B. The size of each sheet shall be eighteen by twenty-six inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one inch. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish the end. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown;
- C. The date and scale of map, north point, and the dimensions of the boundaries; the exterior boundary of the land included within the subdivision shall be indicated by a blue-colored border;
- D. The names of the record owner and the civil engineer or licensed land surveyor under whose direction the map was prepared, including the registration number of the engineer or surveyor;
- E. City boundaries which cross or adjoin the subdivision shall be clearly designated and located in relation to the subdivision;
- F. The location, width and purpose of all existing and proposed easements or rights-of-way (other than streets, freeways, alleys and pedestrian ways), whether public or private, within the proposed subdivision;
- G. The location, name (if existing), width and purpose of existing easements or rights-of-way for freeways, streets, alleys and pedestrian ways within the proposed subdivision;
- H. Lots shall be numbered or lettered and continue without omission or duplication throughout the subdivision. No prefix or suffix nor combination of letter and number shall be used. Each lot shall be shown entirely on one sheet unless such requirement is waived by the city engineer;
- I. The location of each parcel and its relation to surrounding surveys. The location of any designated remainder of the original parcel shall be shown, but need not be shown as a matter of survey but only by reference to the existing record boundaries of such remainder if such remainder has a gross area of five acres or more;
- J. The names and/or numbers of adjacent subdivisions and the names of the record owners of unsubdivided property adjoining the proposed subdivision;
- K. All dimensions, both linear and angular, for locating the boundaries of the property, lots, streets, rights-of-way and easements within the subdivision, and building setback lines adjacent to the proposed and existing streets within the subdivision, except that building setback lines shall not be required to be shown on a parcel map covering hillside areas. Linear dimensions shall be expressed in feet and decimals of a foot. Angular dimensions shall be expressed in degrees, minutes and seconds;
- L. The location of all permanent monuments, together with a description indicating their size;

M. The location of any watercourse, channel, stream or creek adjoining or within the proposed subdivision;

N. The date of any preliminary or final geologic and/or soils report required by this title, and the name of the engineer and/or geologist who prepared said report;

O. The approximate location of any known potentially active fault zone within the proposed subdivision;

P. In the event that an owner's development lien has been created pursuant to the provisions of Article 2.5 (commencing with Section 39327) of Chapter 3 of Part 23 of the Education Code on the real property or portion thereof subject to the final map, a notice shall be placed on the face of the final map specifically referencing the book and page in the county recorder's office in which the resolution creating the owner's development lien was recorded. The notice shall state that the property subdivided is subject to an owner's development lien and that each parcel created by the recordation of the final map shall be subject to a prorated amount of the owner's development lien on a per acre or portion thereof basis.

Q. If a field survey was performed, the parcel map shall contain a certificate by the engineer or surveyor responsible for the preparation of the map that states that all monuments are of the character and occupy the positions indicated, or that they will be set in such positions on or before a specified date, and that the monuments are, or will be, sufficient to enable the survey to be retraced.

(Prior code § 9229; Ord. 22126.)

19.16.130 Final map - Director processing and transmittal.

Upon receipt of the final map, the director shall check said final map to ascertain if it complies with the approved or conditionally approved tentative map and any requirements imposed as conditions to the acceptance of said map, and shall thereafter transmit it to the city engineer.

(Prior code § 9230.)

19.16.140 Final map - City engineer processing and approval.

A. Upon receipt of the final map, the city engineer shall check same for correctness of surveying data, the adequacy of certificates of dedication, compliance with conditions of approval of tentative map, and any other matters or features which require checking in order to insure that the map complies with the provisions of this title and of the Subdivision Map Act. If the final map complies in all respects with the tentative map as approved, if the subdivider has fulfilled all the conditions imposed by the director in connection with the provisions of the tentative map, and if the final map complies with the provisions of this title and the Subdivision Map Act, the city engineer shall endorse his or her certificate on the map in the form prescribed by the Subdivision Map Act and approve the map. The city engineer, by written finding, may waive the requirements of this subsection when the failure to conform is the result of a technical

or inadvertent error which in the determination of the city engineer does not materially affect the validity of the map pursuant to the provisions of Government Code Section 66473.

B. The city engineer shall accept, accept subject to improvement, or reject any and all offers of dedication of land for public use shown on the map, and the city clerk shall thereupon transmit said map to the clerk of the county board of supervisors for submittal to the county recorder; provided that the city engineer shall not endorse his or her certificate on or approve the map until the required improvements set forth in the approval of the tentative map have been installed or the subdivider has entered into an agreement to install such improvements.

C. If the map does not comply with the provisions of this title and the Subdivision Map Act or does not conform to the approved or conditionally approved tentative map, the city engineer shall disapprove the map as provided in Section 19.04.060.

D. The city engineer shall notify the city council at its next regular meeting after receipt of a final map that the city engineer is reviewing the map for final approval. The city clerk shall provide notice of the city engineer's pending decision on a final map by attaching and posting the notice with the city council's regular agenda and mailing the notice to interested parties who request notice. The city engineer shall approve or disapprove the final map within ten days following the meeting of the city council that was preceded by the clerk's notice.

E. The city council shall review the delegation of authority to the city engineer hereunder annually in conjunction with its budget process.
(Prior code § 9231; Ord. 26386.)

19.16.145 Final map - Appeal to city council.

The city engineer's decision to approve or disapprove the final map may be appealed to the city council. Such appeal shall be in writing and filed with the city clerk within fifteen days of the city engineer's decision. The city clerk shall place the matter on the city council agenda as soon as is practicable.
(Ord. 26386.)

19.16.150 Final map - Action by city council.

A. The city council on appeal shall approve said map if it complies in all respects with the tentative map as approved, if the subdivider has fulfilled all the conditions imposed by the director in connection with the approval of the tentative map, and if the final map complies with all the requirements of the Subdivision Map Act and this title applicable at the time of approval or conditional approval of the tentative map. The city council, by resolution, may waive the requirements of this subsection when the failure to conform is the result of a technical or inadvertent error which in the determination of the city council does not materially affect the validity of the map pursuant to the provisions of Government Code Section 66473.

B. The city council on appeal shall, at such meeting, also accept, accept subject to improvement, or reject any and all offers of dedication of land for public use, and unless the

streets, alleys, pedestrian ways and easements have been improved and accepted shall, as a condition precedent to the acceptance of any streets, alleys, pedestrian ways or easements, provide for the improvement of such streets, alleys, pedestrian ways and easements in accordance with the standard specifications applicable at the time of approval of the tentative map and with the plans for the improvement of the subdivision which are approved by the city engineer.

(Prior code § 9232; Ords. 22126, 26386.)

19.16.160 Final map - Approval and recordation conditions -Disapproved maps.

If the city engineer or the city council on appeal approves said final map, it shall be recorded as provided by the Subdivision Map Act. The final map shall not be approved and recorded until the required improvements as set forth in the approval of the tentative map have been installed, or the subdivider has entered into an agreement to install such improvements. If the map is disapproved by the city engineer or the city council on appeal, the city engineer shall return the disapproved map to the subdivider with the reasons for such disapproval.

(Prior code § 9233; Ord. 26386.)

19.16.170 Final map - Condominium and community apartment conversion.

A. Neither the city engineer nor the city council on appeal shall approve a final map for a subdivision to be created from the conversion of residential real property into a condominium project, community apartment project, or a stock cooperative project unless the decisionmaker finds all of the following:

1. Each of the tenants, and each prospective tenant, of the proposed condominium, community apartment project or stock cooperative project has received, pursuant to Sections 66452.9 and 6652.51 of the Subdivision Map Act, written notification of intention to convert at least sixty days prior to the filing of a tentative map pursuant to Section 19.12.010. There shall be a further finding that each such tenant, and each person applying for the rental of a unit in such residential real property, has, or will have, received all applicable notices and rights now or hereafter required by this title or the Subdivision Map Act. In addition, a finding shall be made that each tenant has received ten days' written notification that an application for a public report will be, or has been, submitted to the department of real estate, and that such report will be available on request. The written notices to tenants required by this paragraph shall be deemed satisfied if such notices comply with the legal requirements for service by mail.

2. Each of the tenants of the proposed condominium, community apartment project, or stock cooperative project has been, or will be, given written notification within ten days of approval of a final map for the proposed conversion.

3. Each of the tenants of the proposed condominium, community apartment project, or stock cooperative project has been, or will be, given one hundred eighty days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion. The provisions of this paragraph shall not alter or abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provisions of

services, payment of rent or the obligations imposed by Sections 1941, 1941.1, and 1941.2 of the Civil Code.

4. Each of the tenants of the proposed condominium, community apartment project, or stock cooperative project has been, or will be, given notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than ninety days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code of the state, unless the tenant gives prior written notice of his or her intention not to exercise the right.

B. This section shall not diminish, limit or expand, other than as provided herein, the authority of city to approve or disapprove condominium projects.
(Prior code § 9233.1; Ords. 18570, 22126, 26386.)

19.16.180 Parcel map - Certificate of city engineer.

A. If the parcel map complies with the provisions of this chapter and the Subdivision Map Act and conforms to the approved or conditionally approved tentative map, where required, if the subdivider has fulfilled all the conditions imposed by the director in connection with the approval of the tentative map, and if the city engineer after having examined the parcel map for the survey information shown thereon is satisfied that it is technically correct, the city engineer shall, within twenty days after receiving the parcel map or within such additional time as may be necessary endorse his or her certificate on the map in the form prescribed in the Subdivision Map Act and also accept, accept subject to improvement, or reject any and all offers of dedication of land for public use, and the city clerk shall thereupon transmit said map to the clerk of the county board of supervisors for submittal to the county recorder; provided that the city engineer shall not endorse his or her certificate on a parcel map until the required improvements set forth in the approval of the tentative map have been installed or the subdivider has entered into an agreement to install such improvements. If the parcel map does not comply with the provisions of this title and the Subdivision Map Act or does not conform to the approved or conditionally approved tentative map, or if the subdivider has not fulfilled all the conditions imposed by the director in connection with the approval of the tentative map, the city engineer shall return such parcel map to the subdivider with the reasons of the city engineer for refusal to endorse his or her certificate on the map. In the event the city engineer refuses to endorse his or her certificate on the map for any reason other than that the survey information shown on the map is technically incorrect, the subdivider may appeal to the city council within fifteen days after such denial. References to the city engineer in this section shall in the absence of the city engineer be deemed to mean and include his or her authorized deputy.

(Prior code § 9234; Ords. 19629, 22126, 26734.)

19.16.190 Exemption for certain parcels in minor subdivisions - Notation required on parcel map.

A. Whenever a parcel of real property is divided so as to become a minor subdivision, the director may, but shall not be required to, exempt the portion to remain in the original owner

from the provisions and regulations of this title, except to the extent that such provisions and regulations are necessary to serve the parcel or parcels to be transferred or developed, or are necessary to insure adequate access to the parcel or parcels remaining in such owner, provided that the director finds that:

1. The parcel or parcels so exempted are not currently proposed for development and are subject to the issuance of a development permit or use permits, PD, conditional or site permit or permits before development can occur; and

2. Dedication of land, construction of improvements, payment of sanitary sewer connection fees, storm drainage fees and other fees normally required for parcels at the time of development are not needed for the parcel or parcels exempted at the time the development or use permit is approved and the parcel map recorded, and there is assurance that they will be provided if necessary or required under appropriate regulations at the time of development of such exempted parcel or parcels.

B. Approval of the tentative map for a minor subdivision and recordation of a parcel map therefor shall not preclude the city from requiring further dedication of land and improvements and payment of applicable fees including, but not limited to, sanitary sewer connection fees and storm drainage fees for the parcel or parcels exempted under the provisions of this section, at the time of development of such parcel or parcels, and shall not be construed to be a waiver of requirements of such dedication, improvement and fees for such exempted parcel or parcels at the time of development, notwithstanding the provisions of Section 19.40.100 of the San José Municipal Code and Section 66499.35 of the Subdivision Map Act. Each tentative map and parcel map for minor subdivisions which contain a parcel or parcels exempted under this section shall contain the following notation which shall refer to the exempted parcel or parcels marked thereon:

“Parcel (or parcels) No.(s) _____ (insert the appropriate lot number or numbers of exempted parcel or parcels) is (are) subject to future dedication and improvement requirements under Site Development Permit(s), PD Permit(s), Conditional Use Permit(s), or similar regulations and payment of applicable sanitary sewer connection fees and storm drainage fees and other applicable fees before development.”
(Prior code § 9234.1, Ord. 26734.)

19.16.200 Parcel map - Not required for certain conveyances to public agencies.

A parcel map shall not be required for (a) subdivisions of a portion of the operating right-of-way of a railroad corporation defined as such by Section 230 of the Public Utilities Code, which are created by short-term leases (terminable by either party on not more than thirty days' notice in writing), or (b) land conveyed to or from a governmental agency, public entity, public utility, or for land conveyed to a subsidiary of a public utility for conveyance to such public utility for right-of-way, unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates such a parcel map.
(Prior code § 9234.3; Ords. 18570, 22126.)

19.16.210 Final or parcel map - Certificate of correction permitted when.

A. After a final map or parcel map is filed in the office of the county recorder, it may be amended by a certificate of correction or an amending map:

1. To correct an error in any course or distance shown thereon;
2. To show any course or distance that was omitted therefrom;
3. To correct an error in the description of the real property shown on the map;
4. To indicate monuments set after the death, disability or retirement from practice of the engineer or surveyor charged with responsibilities for setting monuments;
5. To show the proper location or character of any monument which has been changed in location or character, or originally was shown at the wrong location or incorrectly as to its character; or
6. To correct any other type of map error or omission as approved by the city engineer, which does not affect any property right. Such errors and omissions may include, but are not limited to, lot numbers, acreage, street names, and identification of adjacent record maps.

B. As used in this section, “error” does not include changes in courses or distances from which an error is not ascertainable from the data shown on the final or parcel map.
(Prior code § 9234.2; Ords. 18570, 19215.)

19.16.220 Require ments for maps amending final or parcel maps by certificate of correction.

The amending map or certificate of correction shall be prepared by a registered civil engineer or licensed land surveyor. An amending map shall conform to the requirements of Sections 19.16.050 through 19.16.090 and Section 19.16.110 if a final map, or Sections 19.16.050 through 19.16.090 and Section 19.16.120 if a parcel map. The amending map or certificate of correction shall set forth in detail the corrections made, and show the names of the present fee owners of the property affected by the correction or omission.
(Prior code § 9234.2a; Ords. 18571, 19215.)

19.16.230 Certificate of correction - Certified by county surveyor or city engineer when.

If the subdivision is in unincorporated territory, the county surveyor shall examine the amending map or certificate of correction and if the only changes made are those set forth in Section 19.16.210, he shall certify to this fact on the amending map or certificate of correction. If the subdivision is in a city, such examination and certification shall be by the city engineer.
(Prior code § 9234.2b; Ord. 18571.)

19.16.240 Amending map or certificate of correction - Filing and recordation - Effect.

The amending map or certificate of correction certified by the county surveyor or city engineer shall be filed in the office of the county recorder in which the original map was filed. Upon such filing, the county recorder shall index the names of the fee owners and the appropriate tract designation shown on the amending map or certificate of correction in the general index and map index respectively. Thereupon, the original map shall be deemed to have been conclusively so corrected, and thereafter shall impart constructive notice of all such corrections in the same manner as though set forth upon the original map.
(Prior code § 9234.2c; Ord. 18571.)

19.16.245 Maps rejected by county recorder.

Upon receipt of a final or parcel map which has been rejected for filing by the county recorder, the city clerk shall place the map on the agenda of the next regular meeting of the city council and the city council shall, within fifteen days thereafter, rescind its approval of the map and return the map to the subdivider unless the subdivider presents evidence that the basis for the rejection by the county recorder has been removed. The subdivider may consent to a continuance of the matter; however, the prior approval of the city council shall be deemed rescinded during any period of continuance.
(Ord. 22126.)

19.16.250 Merger and resubdivision of land.

Subdivided lands may be merged and resubdivided without reverting to acreage by complying with all the applicable requirements for the subdivision of land as provided by Subdivision Map Act and this title. The filing of the final map or parcel map shall constitute legal merging of the separate parcels into one parcel and the resubdivision of such parcel, and the real property shall thereafter be shown with the new lot or parcel boundaries on the assessment roll. Any unused fees or deposits previously made pursuant to this title pertaining to the property shall be credited pro rata towards any requirements for the same purposes which are applicable at the time of resubdivision. Any streets or easements to be left in effect after the resubdivision shall be adequately delineated on the map. After approval of the merger and resubdivision by the city council, the map shall be delivered to the county recorder. The filing of the map shall constitute legal merger and resubdivision of the land affected thereby, and shall also constitute abandonment of all streets and easements not shown on the map.
(Prior code § 9235.5; Ord. 19215.)

Endnotes

4. For statutory provisions on final and parcel maps, see Gov. Code §§ 66433–66450 and 66456–66463; for provisions on reversion to acreage, see Gov. Code § 66499.11 et seq.

Chapter 19.20

REVERSION TO ACREAGE

19.20.010 Initiation by council or by petition.

Proceedings for reversion to acreage may be initiated by the city council on its own motion or by petition of all of the owners of record of the real property within the subdivision.
(Prior code § 9235.)

19.20.020 Petition - Information required - Filing - Fee.

A. The petition for a reversion to acreage shall be filed with the director and be in a form prescribed by the director, and shall contain the following:

1. Adequate evidence of title to the real property within the subdivision;
2. Sufficient data to enable the city council to make all of the determinations and findings required by Sections 19.20.030 and 19.20.040;
3. A final map which delineates dedications which will not be vacated and dedications which are a condition to reversion; and
4. Such other pertinent information as may be required by the director.

B. A fee as set forth in the schedule of fees established by resolution of council to reimburse the city for costs incurred in processing such reversion to acreage, shall be paid to the city of San José by the owners at the time of filing the petition for reversion to acreage; or, if the proceedings for reversion to acreage are initiated by the city council on its own motion, shall be paid by the person or persons requesting the city council to proceed pursuant to Section 19.20.010 before such initiation of proceedings.
(Prior code § 9235.1; Ord. 21298.)

19.20.030 Hearing and findings required.

A. A public hearing shall be held on the proposed reversion to acreage. Notice thereof shall be given in the time and manner provided in Sections 66451.3 and 66451.4 of the Subdivision Map Act.
(Prior code § 9235.2; Ord. 22126.)

19.20.040 Conditions required by city council.

As conditions of reversion, the city council shall require:

A. Dedications or offers of dedication for necessary public streets, highways, ways or easements;

B. Retention of all previously paid fees if necessary to accomplish the purposes of the Subdivision Map Act or this title;

C. Retention of any portion of required improvement security or deposits if necessary to accomplish the purposes of the Subdivision Map Act or this title.
(Prior code § 9235.3.)

19.20.050 Effect of recording.

Reversion shall be effective upon the final map being filed for record by the county recorder, and thereupon all dedications and offers of dedication not shown thereon shall be of no further force or effect. When a reversion is effective all fees and deposits shall be returned and all improvement security released, except those retained pursuant to Section 19.20.040. A tax bond shall not be required in reversion proceedings.
(Prior code § 9235.4.)

19.20.060 Authorization for parcel map.

A parcel map may be filed under the provisions of this chapter for the purpose of reverting to acreage land previously subdivided and consisting of four or less contiguous parcels under the same ownership. Any map so submitted shall be accompanied by evidence of title and nonuse or lack of necessity of any streets or easements which are to be vacated or abandoned. Any streets or easements to be left in effect after the reversion shall be adequately delineated on the map. After approval of the reversion by the city engineer, the map shall be delivered to the county recorder. The filing of the map shall constitute legal reversion to acreage of the land affected thereby, and shall also constitute abandonment of all streets and easements not shown on the map. The filing of the map shall also constitute a merger of the separate parcels into one parcel for purposes of this chapter and shall thereafter be shown as such as the assessment roll subject to the provisions of Section 66445. Except as provided in subdivision (f) of Section 66445, on any parcel map used for reverting to acreage, a certificate shall appear signed and acknowledged by all parties having any record title interest in the land being reverted consenting to the preparation and filing of the parcel map.
(Ord. 22126.)

Chapter 19.24

SURVEY AND MONUMENTATION

19.24.010 Survey procedures and monument requirements.

- A. All survey work performed for the preparation of a final map or parcel map shall conform to the requirements of the Land Surveyors Act of the State of California, the Subdivision Map Act and this Title 19, and shall be subject to inspection and approval by the city engineer.
- B. The allowable error of closure of any portion of any final map or parcel map shall be one in twenty thousand or such other error of closure as the city engineer finds to be consistent with the standards of practice of the engineering profession within Santa Clara County.
- C. All monuments shall conform to the city engineer's specifications and shall be subject to the inspection and approval of the city engineer.
- D. Permanent monuments, visibly marked and tagged with the registration number or license number of the civil engineer or land surveyor under whose supervision the survey was made, shall be set at:
1. All boundary corners of the subdivision;
 2. At all street intersections;
 3. Between street intersections where necessary to preserve the street alignment;
 4. At the angle points along the exterior boundaries of the subdivision; and
 5. At the intersection of the exterior boundary of the subdivision with the street right-of-way.
- E. Monuments need not be set at angle points in common exterior boundary lines where multiple final maps are filed by the same property owner for the subdivision of adjacent parcels.
- F. Permanent monuments shall also be set on the street rights-of-way at right angles or radially to street centerline monuments, or in lieu thereof, a permanent reference mark on the top of the sidewalk or curb shall be made or set at right angles or radially to street centerline monuments. Where street monuments fall within a street intersection or at the end of a cul-de-sac, those street monuments shall be tied by distance to marks on the sidewalk or curb or iron pipes on the street right-of-way and the location of reference marks shall be shown on the final map or parcel map.
- G. At least one exterior boundary line of the land being subdivided shall be adequately monumented or referenced before the map is recorded. All monuments need not be set at the time of recordation if all of the following conditions are satisfied:

1. The improvement contract so provides; and
2. The civil engineer or land surveyor states or certifies on the final map or parcel map that all interior and/or exterior monuments will be set on or before a specified later date; and
3. The subdivider furnishes to the city a faithful performance monument bond or other security satisfactory to the city engineer guaranteeing such performance in an amount equal to the cost determined by the city engineer of setting such monuments.

H. Prior to the city's release of the faithful performance monument bond or other security accepted by the city guaranteeing the subdivider's performance of the monument agreement, the subdivider or the civil engineer or land surveyor of record shall:

1. Provide written notice to the city engineer that all final monuments have been set; and
 2. Provide written notice to the city engineer that the civil engineer or land surveyor of record has been paid for the setting of the final monuments.
- (Prior code § 9255; Ords. 19215, 24550.)

Chapter 19.28

DEDICATIONS ₅

19.28.010 Required easements designated.

Such easements for public utilities, streets, pedestrian ways, alleys, street lighting, sanitary sewers, drainage, flood-control channels, water systems, public access routes, slope easements, bicycle paths designated for the purpose of accommodating bicycles in the case of subdivisions containing on the final map two hundred or more parcels, easements along the banks of public waterways, rivers and streams bordering or lying within a proposed nonindustrial subdivision fronting upon a public waterway, river or stream, shall be dedicated for public use by separate instrument or on the final map, in locations specified by the director, as the director determines are necessary for the general use of the lot owners in the subdivision and local neighborhood traffic, drainage and sanitary needs.

(Prior code § 9236.)

19.28.020 Dedication requirements.

All parcels of land intended for public use in a subdivision and shown on a final map or parcel map shall be offered for dedication for public use prior to approval of the final map by the city engineer or the city council on appeal or the parcel map by the city engineer. Such dedication may be made on the map or by separate instrument. If dedications required for the filing of a final map or parcel map are made by separate instrument, such dedications shall be recorded prior to the final map or parcel map being filed for record.

(Prior code § 9237; Ord. 26386.)

19.28.030 Waiver of direct access rights authorized when.

The director may, as a condition precedent to approval of a tentative map, require a waiver of direct access rights to any street or freeway from any property shown on the final map or parcel map as abutting thereon, when the director, in the exercise of reasonable discretion, deems that such waiver is desirable.

(Prior code § 9238.)

19.28.040 Private streets.

Any street which is intended to be kept physically closed to public travel or posted as a private street at all times, may be shown as a private street. In any such case, the final map shall contain a conditional offer of dedication which may be accepted by the city council at such time as the street shall have ceased to remain so physically closed or posted, and shall have been opened to public travel for a period of three months or more. Sufficient data shall be shown on each private street to define its boundaries and also sufficient mathematical data to show clearly the portion of each lot within such street. The design and improvement of any such private street shall be subject to all of the requirements prescribed by this title for public streets.

(Prior code § 9239.)

19.28.050 Street planting strips, parks and open space.

The director shall not approve any tentative map wherein provision is made for a street planting strip on either side of a roadway of any street in excess of eight feet wide unless such wider planting strip is first approved by the city council. Also, the director shall not approve a tentative map providing for, or in expectation of, or conditioned upon the dedication, conveyance or granting to the city of any land within the proposed subdivision for public parks, or for other public open space other than street planting strips, unless the city council has first approved such dedication, conveyance or grant.

(Prior code § 9240.)

19.28.060 Reservation of land for certain public uses.

The director may require as a condition for approval of a tentative map that area of real property within the proposed subdivision be reserved for parks, recreational facilities, fire stations, libraries or other public uses based upon and conforming to the general plan or specific plan of the city. The reserved area shall be of such size and shape as to permit the balance of the subdivision within which the reservation is located to develop in an orderly and efficient manner. The amount of land reserved shall not be such as to make the development of the remainder of the subdivision unfeasible. The reserved area shall conform to the general plan or specific plan of the city, and shall be in such multiples of streets and parcels as to permit an efficient division of the reserved area in the event it is not acquired within two years after the completion and acceptance of all improvements (unless such time is extended by mutual consent), in which event the subdivider shall make those changes as are necessary to permit the reserved area to be developed for the intended purpose consistent with good subdividing practices. The city shall, at the time of approval of the first final map or parcel map covering any portion of the reserved area shown on the tentative map, enter into a binding agreement to acquire such reserved area within two years after completion and acceptance of all improvements required by the tentative map, unless such period of time is extended by mutual agreement. The purchase price of such reserved area shall be the market value thereof at the time of the filing of the tentative map plus the taxes against such reserved area from the date of the reservation and any other costs incurred by the subdivider in the maintenance of such reserved area, including interest costs incurred on any loan covering such reserved area. If the city does not enter such a binding agreement, the reservation of such area shall automatically terminate.

(Prior code § 9240.1.)

19.28.070 Offers of dedication.

A. If at the time the final map is approved, dedications of any streets, paths, alleys, rights-of-way for local transit facilities such as bus turnouts, benches, shelters, landing pads, and similar items, which directly benefit the residents of a subdivision, or storm drainage easements are rejected, subject to Section 771.010 of the Code of Civil Procedure, the offer of dedication shall remain open and the city council may, by resolution at any later date, and without further action by the subdivider, rescind its action and accept and open the streets, paths, alleys, rights-of-way for local transit facilities such as bus turnouts, benches, shelters, landing pads, and similar items,

which directly benefit the residents of a subdivision, or storm drainage easements for public use, which acceptance shall be recorded in the office of the county recorder.

B. In the case of any subdivision fronting upon bay shoreline, the offer of dedication of public access route or routes from public highways to land below the ordinary high water mark shall be accepted within three years after the approval of the final map; in the case of any subdivision fronting upon any public waterway, river, or stream, the offer of dedication of public access route or routes from public highways to the bank of the waterway, river, or stream and the public easement along a portion of the bank of the waterway, river, or stream shall be accepted within three years after the approval of the final map; in the case of any subdivision fronting upon any lake or reservoir which is owned in part or entirely by any public agency, including the state, the offer of dedication of public access route or routes from public highways to any water of such lake or reservoir shall be accepted within five years after the approval of the final map; all other offers of dedication may be accepted at any time.

C. Offers of dedication which are covered by subsection A. may be terminated and abandoned in the same manner as prescribed for the summary vacation of streets by Part 3 (commencing with Section 8300) of Division 9 of the Streets and Highways Code.

D. Offers of dedication which are not accepted within the time limits specified in subsection B. shall be deemed abandoned.

E. Except as provided in Sections 66499.16, 66499.17, and 66499.18, of the Subdivision Map Act, if resubdivision or reversion to acreage of the tract is subsequently filed for approval, any offer of dedication previously rejected shall be deemed to be terminated upon the approval of the new map by the city council.
(Ord. 22126.)

Endnotes

5. For statutory provisions on dedications, see Gov. Code § 66475 et seq. and §§ 66439 and 66447.

Chapter 19.32

IMPROVEMENTS AND FEES ₆

19.32.010 Subdivider agreement prerequisite to map approval.

The subdivider shall, as a condition for the approval of the final map or parcel map, consistent with Sections 66411.1 and 66462.5 of the Subdivision Map Act, improve or agree to improve all land either within or outside the subdivision to be used for public or private streets, alleys, pedestrian ways and easements with such improvements as the director shall determine to be necessary for the general use of the lot owners in the subdivision and local neighborhood traffic, drainage and sanitary needs.
(Prior code § 9242; Ord. 22126.)

19.32.020 Requirements generally.

Improvements to be installed or agreed to be installed as a condition precedent to the approval and acceptance of the final map or parcel map shall comply with requirements outlined in this title, shall be provided and developed in accordance with the conditions imposed by the director with respect to the approval or conditional approval of the tentative map, in accordance with any agreement made or entered into by the subdivider for the purpose of complying with such conditions, and in accordance with plans approved by the city engineer and the standard specifications of the city applicable at the time of the approval of the tentative map.
(Prior code § 9241; Ord. 26386.)

19.32.030 Drainage facilities.

The subdivider shall provide and install such drainage facilities either within or outside the subdivision as are required by the director as a condition for approval of a tentative map. The director shall require that such drainage facilities shall be installed within easements therefor required by the director, that such facilities shall conform to those described in the standard specifications applicable at the time of approval of the tentative map and shall be installed in accordance with the standard specifications applicable at the time of approval of the tentative map, in the specific locations shown on and in accordance with the plans approved by the city engineer for the subdivision.
(Prior code § 9245; Ord. 26386.)

19.32.040 Streets.

The subdivider shall improve all streets which are a part of the subdivision, or are required by the director of the subdivision, with such street improvements as are required by the director as a condition for approval of the tentative map. Such improvements may include, but are not limited to, the following: street grading and paving; portland cement concrete curbs and gutters; portland cement concrete sidewalks; portland cement concrete driveway approaches; ornamental fences and landscaping where double frontage lots are approved; pipes, catch basins, sanitary sewer mains, laterals and appurtenances; drainage mains, inlets, laterals and appurtenances; fire

hydrants; street trees, street name signs; street lights, including electrical conduits and cables; and any and all appurtenances to any and all of the foregoing improvements. The director shall require that such improvements as are required by it for the subdivision shall be installed in accordance with the standard specifications of the city applicable at the time of approval of the tentative map, in the specific locations shown on and in accordance with the plans approved by the city engineer for the subdivision.
(Prior code § 9243; Ord. 26386.)

19.32.050 Sanitary sewer facilities.

Subdivider shall provide and install such sanitary sewer facilities either within or outside the subdivision as are required by the director as a condition for approval of the tentative map. The director shall require that such sanitary sewer facilities shall be installed within easements therefor required by the director, that said facilities shall conform to those described in the standard specifications applicable at the time of approval of the tentative map, and shall be installed in accordance with the standard specifications applicable at the time of approval of the tentative map, in the specific locations shown on and in accordance with the plans which are approved by the city engineer for the subdivision.
(Prior code § 9246; Ord. 26386.)

19.32.060 Utility facilities.

A. Utility facilities, with connections to each lot within the subdivision, adequate to supply telephone, electricity, gas and water service to the subdivision, shall be constructed and installed in and for the purpose of supplying telephone, electricity, gas and water service to the subdivision.

B. All telephone and electricity distribution or transmission facilities installed in and for the purpose of supplying any telephone or electricity service to the subdivision, and also all telegraph and all community antenna television distribution or transmission facilities, if any, installed in and for the purpose of supplying any telegraph or community antenna television signal services to a subdivision, shall be placed underground, except as follows:

1. Transformers, pedestal mounted terminal boxes, meter cabinets and concealed ducts may be situate above ground if they are used solely for the purpose of providing service within the subdivision and are used solely in connection with the underground transmission or distribution lines;

2. Metal poles supporting electricity transmission lines, and the electricity transmission lines supported by such poles, may be situated above the surface of the ground if the voltage carried by such lines is more than 12KV and such lines are not connected to any distribution line situate within the subdivision and do not in any way serve any part of the subdivision;

3. Poles supporting streetlights, and the electrical lines within said poles, may be situated above the surface of the ground.

C. The director may waive the underground requirements of this section, in whole or in part, if he finds that topographical, soil or other conditions or circumstances make underground installation of said facilities as required by this section unreasonable or impracticable.
(Prior code § 9250.)

19.32.070 Installation of fire hydrants.

Subdivider shall furnish and install in the subdivision such fire hydrants, including such appurtenant facilities as required to connect such fire hydrants to existing water service, whether within or outside the subdivision, as are required by the director as a condition for approval of the tentative map. The director shall require that such hydrants shall be installed within streets or other easements therefor required by the director; that such hydrants shall conform to those described in the standard specifications applicable at the time of approval of the tentative map, and shall be installed in accordance with the standard specifications applicable at the time of approval of the tentative map, in the specific locations shown on and in accordance with the plans which are approved by the city engineer for the subdivision.

In lieu of subdivider furnishing such hydrants and facilities, the subdivider may elect to have city furnish such hydrants and facilities which subdivider shall, at subdivider's sole cost and expense, pick up at such place or places designated by the city engineer, deliver to the installation site, and install, provided the subdivider shall pay the city in advance, for furnishing such hydrants and facilities, a sum as set forth in the schedule of fees established by resolution of council.

(Prior code § 9247; Ords. 19497, 19836, 20641, 21029, 21045, 21298, 26386.)

19.32.080 Sidewalk improvements.

Sidewalk improvements may be omitted from all or part of a proposed subdivision if the director, upon written recommendation of the city engineer, finds that because of the proposed design of and/or other proposed improvements for such subdivision the subdivision will best be served by the omission of such sidewalk improvements from all or part of such subdivision.
(Prior code § 9244.)

19.32.090 Street names.

Proposed street names shall not duplicate or too closely approximate phonetically the names of any streets in San José or its immediate environs. Where streets are continuations of existing streets, the existing street names shall be used.
(Prior code § 9283.)

19.32.100 Street name signs.

A. The subdivider shall install such street name signs in the subdivision as are required by the director as a condition for approval of the tentative map. The director shall require that such street name signs shall be installed within streets or other easements therefor required by the director, that such signs shall conform to those described in the standard specifications applicable

at the time of approval of the tentative map, and shall be installed in accordance with the standard specifications applicable at the time of approval of the tentative map, in the specific locations shown on and in accordance with the plans which are approved by the city engineer for the subdivision.

B. In lieu of the subdivider furnishing and installing such street name signs, the subdivider may elect to have the city furnish and install such street name signs, provided the subdivider shall pay the city in advance for the furnishing and installing of such signs in the amount set forth in the schedule of fees established by resolution of council.

(Prior code § 9248; Ords. 20641, 21029, 21045, 21298, 26386.)

19.32.110 Street trees.

A. Subdivider shall furnish and install such street trees within the subdivision as are required by the director as a condition for approval of the tentative map. The director shall require that such street trees shall be installed within street or other easements therefor required by the director, that such trees shall conform to those described in the standard specifications applicable at the time of approval of the tentative map, and shall be installed in accordance with the standard specifications applicable at the time of approval of the tentative map, in the specific locations shown on and in accordance with the plans for the improvement of the subdivision which are approved by the city engineer.

B. In lieu of the subdivider furnishing and installing such street trees, the city may elect that the subdivider, prior to the approval of the final map or parcel map, deposit with the city the sum set forth in the schedule of fees established by resolution of council. The amount so deposited shall be used by the city to install such street trees as are required by the director as a condition for approval of the tentative map in the manner aforesaid.

(Prior code § 9249; Ords. 19715, 20634, 21036, 21052, 21298, 26386.)

19.32.112 Installation of traffic-control signs in subdivisions.

Subdivider shall furnish and install such traffic-control signs within the subdivision as are required by the director as a condition for approval of the tentative map. The director shall require that such traffic-control signs shall be installed within street or other easements therefor required by the director; that such traffic-control signs shall conform to those described in the standard specifications applicable at the time of approval of the tentative map, and shall be installed in accordance with the standard specifications applicable at the time of approval of the tentative map, in the specific locations shown on and in accordance with the plans for the improvement of the subdivision which are approved by the city engineer.

In lieu of subdivider furnishing and installing such traffic-control signs, city may elect that subdivider, prior to the approval of the final map or parcel map, deposit with city the amount set forth in the schedule of fees established by resolution of council. The amount so deposited shall be used by city to install such traffic control signs as are required by the director as a condition for approval of the tentative map in the manner aforesaid.

(Ords. 19716, 21037, 21053, 21298, 26386.)

19.32.114 Installation of pavement markings in subdivisions.

Subdivider shall furnish and install such pavement markings within the subdivision as are required by the director as a condition for approval of the tentative map. The director shall require that such pavement markings shall be installed within street or other easements therefor required by the director; that such pavement marking shall conform to those described in the standard specifications applicable at the time of approval of the tentative map, and shall be installed in accordance with the standard specifications applicable at the time of approval of the tentative map, in the specific locations shown on and in accordance with the plans for the improvement of the subdivision which are approved by the city engineer.

In lieu of subdivider furnishing and installing such pavement markings, city may elect that subdivider, prior to the approval of the final map or parcel map, deposit with city the amount set forth in the schedule of fees established by resolution of council for all pavement markings in the proposed subdivision. The amount so deposited shall be used by city to install such pavement markings as are required by the director as a condition for approval of the tentative map in the manner aforesaid.

(Ords. 19716, 20641, 21029, 21045, 21298, 26386.)

19.32.120 Construction of improvements before approval of final map.

In the event the subdivider elects to construct the improvements required by the director in connection with the subdivision before the final map is presented for approval to the city engineer, the subdivider shall present to the city engineer for approval the plans for such improvements. Immediately after approval of such plans by the city engineer, the subdivider may commence the construction of such improvements in accordance with such plans and the standard specifications of the city in effect at the time of approval of the tentative map.

(Prior code § 9251; Ord. 26386.)

19.32.125 City engineer - Approval of improvement agreements.

A. The city engineer may enter into improvement agreements with subdividers that are submitted in accordance with and meet the requirements set forth in Section 19.32.130.

B. The city engineer's action on an improvement agreement may be appealed to the city council for conformance with the provisions of this Title 19 and Chapter 3 of the Subdivision Map Act commencing with Government Code Section 66451. Such appeal shall be in writing and filed with the city clerk within fifteen days of the city engineer's action. The city clerk shall place the matter on the city council agenda as soon as is practicable.

C. The city council shall review the delegation of authority to the city engineer hereunder annually in conjunction with its budget process.

(Ord. 26386.)

19.32.130 Final map - Improvement agreement requirements.

At the time the final map is presented for approval to the city engineer, if the improvements required in connection with the subdivision have not been completed, plans for the improvements which the subdivider is required to construct in connection with the subdivision shall be presented to the city engineer for approval unless plans therefor have been previously approved. Before approval and recording of the said final map, the subdivider of the subdivision shall enter into an agreement with the city agreeing to complete the said improvements within eighteen months from the date of execution of the agreement in consideration of the acceptance by the city of the dedications offered on the final map. Said agreement shall be secured by a good and sufficient bond approved by the city attorney securing the faithful performance of the subdivider of the subdivision of all work and the construction of all improvements mentioned in said agreement and also a good and sufficient bond approved by the city attorney securing the payment of the subdivider of all bills for labor and materials incurred in the construction of any and all said improvements and the doing of other work agreed to be done by said subdivider in said agreement. At the option of and subject to the approval by the city attorney, said agreement may also be secured by an instrument of credit from one or more financial institutions subject to regulation by the state or federal government and pledging that the funds necessary to carry out the act or agreement are on deposit and guaranteed for payment, or a letter of credit is issued by such a financial institution. The amount of each of said bonds shall be equal to one hundred percent of the costs estimated by the city engineer of said work and improvements. The subdivider of the subdivision shall also agree in said agreement to furnish to the city a policy or policies of liability insurance to be paid for by said subdivider, which policy or policies of insurance shall meet the requirements of insuring the city, its officers and employees which are established by resolution of the city council.
(Prior code § 9252; Ords. 21616, 26386.)

19.32.140 Parcel map - Improvement agreement requirements.

At the time the parcel map is presented to the city engineer for examination and approval, the plans for the improvements which subdivider is required to construct in connection with the subdivision shall also be or have been submitted to the city engineer for approval. Immediately after approval of the plans by the city engineer and before approval and recording of the said parcel map, the subdivider of the subdivision shall enter into an agreement with the city agreeing to complete the said improvements within eighteen months from the date of execution of the agreement. Said agreement shall be approved by the city engineer and said agreement shall be secured by a good and sufficient bond approved by the city attorney securing the faithful performance by the subdivider of the subdivision of all work and the construction of all improvements mentioned in said agreement and also a good and sufficient bond approved by the city attorney securing the payment by the subdivider of all bills for labor and materials incurred in the construction of any and all of said improvements and the doing of other work agreed to be done by said subdivider equal to one hundred percent of the cost estimated by the city engineer of said work and improvements. At the option of and subject to the approval by the city attorney, said agreement may also be secured by an instrument of credit from one or more financial institutions subject to regulation by the state or federal government and pledging that the funds necessary to carry out the act or agreement are on deposit and guaranteed for payment, or a letter

of credit is issued by such a financial institution. The subdivider of the subdivision shall also agree in said agreement to furnish to the city a policy or policies of liability insurance to be paid for by said subdivider, which policy or policies of insurance shall meet the requirements for insuring the city, its officers and employees which are established by resolution of the city council.

(Prior code § 9253; Ords. 21617, 26386.)

19.32.150 City engineer authority.

All improvements required to be installed and constructed by subdivider in connection with the development of a subdivision shall be installed and constructed under the direction of and to the satisfaction of the city engineer or his authorized representative.

(Prior code § 9254.)

19.32.160 Recording of fee deposits.

Upon submission of a final map or parcel map for checking and certification, the subdivider shall deposit with the city clerk a check made payable to the county recorder equal to the amount required by law for the recordation of the final map or parcel map. Upon the filing of the final map or parcel map for recordation in the office of the county recorder, such money so deposited shall be used in payment of fees for the recording of the final or parcel map. In the event that the subdivider abandons his intention to cause such map to be recorded prior to the time the final map or parcel map is submitted to the clerk of the county board of supervisors for recording, and the subdivider or his agent so notifies the city clerk of such fact in writing, such money shall be returned by the city to the subdivider who deposited the same.

(Prior code § 9256.)

19.32.170 Final map - Checking fees.

The subdivider shall, prior to recordation of the final map, sign an agreement to pay the city, as a fee for all map and plan checking and inspection by city in connection with the subdivision, an amount of money, in accordance with the resolution of the city council establishing the fees and charges for this chapter.

(Prior code § 9257; Ords. 20641, 21029, 21045, 21298, 22126.)

19.32.180 Parcel map - Checking fees.

The subdivider shall, prior to recordation of the parcel map, sign an agreement to pay the city, as a fee for all map and plan checking and inspection by the city in connection with the subdivision, an amount of money, in accordance with the resolution of the city council establishing fees and charges for this chapter.

(Ords. 20641, 21298, 22126.)

19.32.190 Parcel map review fees.

Prior to recordation, the subdivider shall pay to the city a fee for the clearance review of the parcel map of the subdivision, said fee to be in an amount set forth in the schedule of fees established by resolution of council.
(Ords. 20641, 21029, 21045, 21298.)

Endnotes

6 . For statutory provisions on improvement security, see Gov. Code § 66499 et seq.

Chapter 19.36

DESIGN REQUIREMENTS ₇

19.36.010 Freeways, expressways and streets - Location and alignment.

The location and alignment of freeways, expressways and streets shall substantially conform to the approved major thoroughfares plan of the city, and every other approved element of the general plan of the city. The location and alignment of collector and minor streets shall conform to the requirements of the director.

(Prior code § 9258.)

19.36.020 New streets - Relation to adjoining street system.

New streets in new subdivisions shall be designed to make provisions for the continuation of the existing streets adjacent to such new streets into such new subdivisions and for the proper projection of such new streets over adjacent undeveloped property. Such new streets in new subdivisions shall normally be of a width at least as great as the existing streets adjacent to such new streets.

(Prior code § 9270.)

19.36.030 Street widths.

All streets shall, subject to such exceptions as may be contained in this title, be designed to conform to the following right-way widths, roadway widths, sidewalk widths, planting strip widths and median widths:

(See diagrams following Title 19 provisions.)

(Prior code § 9259.)

19.36.040 Street gradients.

The gradients of all streets shall provide adequate surface drainage for the subdivision in which they are located and for areas adjacent thereto. The minimum gradients of streets shall be point four (0.4) percent. Changes in gradients of all such streets greater than one percent shall be attained by the use of a vertical curve. The length of the vertical curve shall be sufficient to allow vehicles using such streets a safe stopping sight distance. In no event shall the gradients of any street create a low point on such street which will cause an area of ponded water greater than point seventy-five (0.75) feet deep on said street prior to gravity surface flow into adjacent streets. The maximum gradient of all expressways shall be six percent. The maximum gradient of all streets, except expressways, shall conform to the following street gradient design standards:

(See chart following Title 19 provisions.)

(Prior code § 9260.)

19.36.050 Horizontal curves.

When connecting street centerlines deflect from each other at any one point by more than five degrees, they shall be joined by a horizontal curve tangent to each of such centerlines. The centerline radius of such horizontal curve shall be large enough to allow vehicles using such streets a safe stopping sight distance and as large as is possible consistent with the topography and lot configuration of the subdivision in which such curve is located. Reversing horizontal curves shall be connected by tangents whose lengths shall be sufficient to safely reverse the unbalanced centrifugal force of the vehicle negotiating the reversing horizontal curves. All such horizontal curves shall have the following minimum centerline radii:

	Feet
Expressway or Six-lane major street	1,000
Four-lane major street	600
Collector street	300
Minor street	150
Minor street (hillside areas)	100

(Prior code § 9262.)

19.36.060 Intersections.

Street intersections shall be as near right angles as possible. If a reverse curve is necessary at an intersection, the intersection will be designed to have a tangent between the reversing curves continuing through the intersection. If a street cannot be extended through an intersection, the minimum distance between the centerline of such intersection and the centerline of the adjacent intersection shall be one hundred twenty-five feet. For a six-lane street, no curve through an intersection with a major street shall have a centerline radius of less than one thousand five hundred feet. For a four-lane street, no curve through an intersection with a major street shall have a centerline radius of less than one thousand feet.

(Prior code § 9263.)

19.36.070 Corner radius.

The property line corner radius at the intersection of two streets shall be a minimum of twenty-four feet, provided, that the director may require a lesser or greater property line corner radius if the safe, efficient movement of traffic requires such. The property line corner radius at the intersection of a street and alley shall be a minimum of ten feet, provided that the director may require a lesser or greater property line corner radius if the safe, efficient movement of traffic requires such.

(Prior code § 9261.)

19.36.080 Cul-de-sac streets.

Cul-de-sac streets shall not be longer than five hundred feet, provided that the director may permit certain cul-de-sac streets in a proposed subdivision to be of greater length if he finds that because of the proposed design and/or proposed improvements in such subdivision, such cul-de-sac streets of greater length are adequate in such subdivision. Turning circles at the end of cul-de-sac streets shall have a right-of-way radius of not less than forty-two feet and a roadway radius of not less than thirty feet, provided that cul-de-sac streets four hundred fifteen feet or less in length may, with approval of the city fire chief, have a right-of-way radius of not less than thirty-eight feet, and provided that the right-of-way radius for cul-de-sac streets located in hillside areas shall not be less than thirty-five feet. All cul-de-sac shall be designed so that the stormwaters deposited on the said cul-de-sac shall flow to the entrance street, provided that the director may waive this requirement because of the proposed design or topography of the proposed subdivision upon recommendation by the city engineer that such requirement should be waived.

(Prior code § 9264.)

19.36.090 Half streets.

The minimum right-of-way for a half street shall be forty feet wide, together with such additional easements for grading and drainage to make the half street functional.

(Prior code § 9271.)

19.36.100 Special streets.

One-way streets, split-level streets and dead-end streets shall not be used unless the director finds that their existence is justified by the topography, size, shape or location of the parcel of land to be subdivided.

(Prior code § 9269.)

19.36.110 Roadway structural design - Specifications incorporated by reference.

The structural design of the roadway of all streets shall conform to the standards of that portion of "The State of California, Department of Public Works, Division of Highways, Planning Manual of Construction, Part 7, Designing," numbering Section 7-600 through and including Section 7-605.5 and entitled "Structural Design of the Roadbed," dated December 11, 1967, which said standards are incorporated herein by reference, a copy of which said standards is on file in the office of the city clerk, available for public inspection, reference to which said copy is hereby made.

(Prior code § 9265.)

19.36.120 Structural design - Curbs and gutters.

"Class No. 3 Base Rock" (as that term is defined in the standard specifications of the city) shall be required to be placed under all curbs and gutters in sufficient thickness so that the combined weight of the base rock and the curb and gutter will satisfy the expansion pressure

requirements of the basement soil at three hundred pounds per square inch exudation, pressure; provided, that in no event shall the total thickness of the base rock and curb and gutter exceed the total thickness of the pavement and base rock required for the roadway portion of the street.
(Prior code § 9266.)

19.36.130 Structural design - Sidewalks and driveways.

A minimum of three inches of “Class No. 3 Aggregate Base,” as that term is defined in the standard specifications of the city, shall be placed beneath all sidewalks. A minimum of six inches of “Class No. 3 Base Rock,” as that term is defined in the standard specifications of the city, shall be placed beneath all driveways.
(Prior code § 9267.)

19.36.150 Alley widths.

The minimum right-of-way for an alley in a residential block shall be twenty feet wide. The minimum right-of-way for any alley in a commercial or industrial block shall be thirty feet wide. The minimum right-of-way for an alley in a block with residential and commercial or industrial uses shall be thirty feet wide.
(Prior code § 9272.)

19.36.160 Pedestrian ways.

A pedestrian way may be required through the approximate middle of each block exceeding twelve hundred feet in length to provide access to a street for land devoted to any of the following uses: schools, parks, shopping centers and commercial uses.
(Prior code § 9273.)

19.36.170 Lot area and width.

Except as lot areas or widths are set forth in other provisions of Title 19 or 20 of this code, each lot shall contain a minimum area of not less than six thousand square feet each with an average width of not less than fifty-five feet.
(Prior code § 9274.)

19.36.180 Lot size less than minimum permitted when.

The director may permit the reduction of the six thousand square foot minimum lot area prescribed in Section 19.36.170 of all or some of the lots in a proposed subdivision if the director shall, in the exercise of reasonable judgment, deem such reduction advisable in view of the character of the neighborhood in which the subdivision is to be located, the quality or kinds of development to which the area is best adapted, the size, use or physical or other conditions of the property proposed to be subdivided, neighborhood and general planning, or safety and general welfare of the public and of the lot owners in the proposed subdivision, provided that in no event shall any lot contain a minimum area of less than five thousand square feet. The provisions of

this section shall not be used to decrease the minimum lot areas designated in Title 20 of this code or in any sections of this Title 19 other than Section 19.36.170.
(Prior code § 9275.)

19.36.190 Lot access requirements.

Except as otherwise provided in this Title 19, all lots shall have direct access to a public street. The director may waive this requirement with respect to certain lots in a proposed subdivision if he finds that, because of the design of and/or improvements in such subdivision, proposed private ways of access from said lots to a public street for both vehicular and pedestrian traffic, are adequate for such lots.
(Prior code § 9276.)

19.36.200 Lot frontage requirements - Exceptions permitted when.

Each lot shall have frontage of not less than fifty-five feet on a street, except:

- A. Lots in subdivisions having an average lot area of less than eight thousand square feet having frontage on the turning circle at the end of cul-de-sac streets four hundred fifteen feet in length or less, with a right-way radius of not less than thirty-eight feet approved by the fire chief, or on the return of an elbow created by the employment of the right-of-way widths for “Minor Streets (B)” or “Collector Streets 2 Lanes Undivided (B)” contained in the diagrams for Section 19.36.030 which follow this title, which may have a minimum frontage of twenty-seven feet;
- B. Lots in subdivisions having an average lot area of eight thousand square feet or more having frontage on the turning circle at the end of cul-de-sac streets four hundred fifteen feet in length or less, with a right-way radius of not less than thirty-eight feet, approved by the fire chief, or on the return of an elbow created by the employment of the right-of-way widths for “Minor Streets (B)” or “Collector Streets 2 Lanes Undivided (B)” contained in the diagrams for Section 19.36.030 which follow this title, which may have a minimum frontage of thirty-one feet;
- C. Lots in subdivisions having an average lot area of less than eight thousand square feet having frontage on the turning circle at the end of cul-de-sac streets or the return of an elbow which may have a minimum frontage of thirty feet;
- D. Lots in subdivisions having an average lot area of eight thousand square feet or more having frontage on the turning circle at the end of cul-de-sac streets or the return of an elbow which may have a minimum lot frontage of thirty-five feet;
- E. Lots fronting on the convex side of curved streets with a centerline radius of five hundred feet or less which may have a minimum frontage of forty feet;
- F. Lots which may have frontage on an approved street by means of a corridor not less than twenty feet wide and not more than three hundred feet long, if the director shall, in the exercise of reasonable judgment, determine such frontage is advisable in view of the size, shape, use or

physical or other conditions of the property proposed to be subdivided. Each such lot, exclusive of said corridor, shall be required to meet the minimum square footage required by the applicable zoning district. Not more than two such lots shall be so provided access by any one corridor. When such corridor provides such access to one lot, such corridor shall be contained within the bounds of, and be a part of, such lot. When such corridor provides such access to more than one lot, one-half of such corridor shall be a part of and contained within the bounds of one of the lots, and one-half of such corridor shall be part of and contained within the bounds of the other lot.
(Prior code § 9277.)

19.36.210 Double frontage.

No lots shall be designed with frontage on two streets except:

- A. Lots at street intersections;
- B. Lots in hillside areas where topographical conditions admit of no other form of platting;
- C. Lots abutting expressways and major streets with four moving lanes of traffic if the director shall, in the exercise of reasonable judgment, determine such double frontage is advisable in view of the size, shape, use or physical or other condition of the property proposed to be subdivided.
(Prior code § 9278.)

19.36.220 Lot depth.

All lots fronting on a major street and all lots with approved double frontage shall have a minimum depth of one hundred twenty feet, except where the director finds that because of the design and/or improvements in such subdivision such lots having a lesser depth are satisfactory in such subdivisions.
(Prior code § 9279.)

19.36.230 Maximum lot depth.

No lot shall have a greater depth than two and one-half times its average width, except when the director, in the exercise of reasonable judgment, shall determine that a greater depth is advisable in view of the size, shape, use or physical or other condition of the property proposed to be subdivided.
(Prior code § 9279a.)

19.36.240 Block length.

Blocks shall not be longer than eighteen hundred feet between street lines unless the director shall find in any given subdivision that a longer block or blocks will not interfere with the movement of vehicular and pedestrian traffic.
(Prior code § 9280.)

19.36.250 Reserve strips.

No subdivisions showing reserve strips controlling the access to streets or showing strips of land which will not prove taxable for public improvements shall be approved, except when the control and disposal of such strips of land are placed within the jurisdiction of the city under conditions meeting the approval of the commission. Lands adjacent to a proposed subdivision shall not be separated from the termination of a dead-end street within said proposed subdivision unless the dead-end street terminates in a cul-de-sac or unless the distance between the end of said street and the adjacent land is more than two hundred feet.
(Prior code § 9281.)

19.36.260 Railroads and grade crossing.

Where a proposed subdivision is adjacent to a railroad right-of-way, the plan of such subdivision shall be considered in its relation to the probability of a grade separation or a crossing at grade.
(Prior code § 9282.)

Endnotes

7. For statutory provisions on improvement security, see Gov. Code § 66411.

Chapter 19.38 PARKLAND DEDICATION

Part 1 Definitions

19.38.010 Definitions.

The definitions set forth in this part shall govern the application and interpretation of this chapter.

(Ord. 25619.)

19.38.020 Affordability restrictions.

“Affordability restrictions” means covenants, conditions and restrictions running with the land and recorded in the office of the Santa Clara county recorder in connection with a residential unit to be utilized by lower income households within the city of San José. The affordability restrictions shall require that the residential unit be utilized by lower income households for a minimum period of thirty years or for such other period as may be required by state or federal law.

(Ord. 25619.)

19.38.030 Director.

“Director” means the director of planning, building and code enforcement or such other director as designated by the city manager.

(Ord. 25619.)

19.38.040 Downtown core area.

“Downtown core area” shall mean that area in the city of San José bounded by Julian Street to the north, Fourth Street to the east, Highway 280 to the south and Highway 87 to the west.

(Ord. 25619.)

19.38.050 Downtown area.

“Downtown area” shall mean those neighborhoods surrounding the downtown core area and which are shown on the appropriate map in the general plan except for neighborhoods located in either the Jackson-Taylor Residential Strategy Plan or the Mid-Town Specific Plan Area.

(Ords. 25619, 25678, 25679.)

19.38.060 Lower income households.

“Lower income households” means persons and families whose incomes do not exceed the qualifying limits for lower income households as established and amended from time to time

pursuant to Health and Safety Code Section 50079.5. In the event such standards are discontinued, the council shall, by resolution, establish eligibility standards for lower income households.

(Ord. 25619.)

19.38.070 Low income unit.

“Low income unit” means a residential unit subject to an affordability restriction.
(Ord. 25619.)

19.38.080 Low income unit voucher.

“Low income unit voucher” means a voucher from the San José housing department or the San José redevelopment agency which specifies that the San José redevelopment agency shall pay the parkland fees on behalf of the subdivider.
(Ord. 25619.)

19.38.090 Parkland fee.

“Parkland fee” shall mean the fee established by this chapter.
(Ord. 25619.)

19.38.100 Public agency.

“Public Agency” shall mean a public utility or any government agency.
(Ord. 25619.)

19.38.110 Public agency property.

“Public agency property” is land which meets the following criteria:(1) the public agency owns the land in fee simple or the public agency owns an easement over the land; and (2) the land is unavailable for public recreational use.
(Ord. 25619.)

19.38.120 Residential care facility for the elderly.

“Residential care facility for the elderly” shall mean a residential development licensed to provide care to the elderly pursuant to California Health and Safety Code Section 1569.10 and Chapter 8 of Title 22 of California Code of Regulations, as may be amended from time to time.
(Ord. 25619.)

19.38.130 Subdivider.

“Subdivider” means a person who submits a tentative map for city's approval that is subject to the provisions of this chapter.
(Ord. 25619.)

19.38.140 Tentative map.

“Tentative map” refers to both a tentative map and a tentative parcel map.
(Ord. 25619.)

**Part 2
Purpose**

19.38.200 Purpose.

- A. The purposes for which dedication of land and/or payment of fees is required by this chapter are in accordance with the services and facilities and parks and recreation goals and policies of the general plan of the city of San José.
- B. This chapter is enacted consistent with Section 66477 of the Government Code of California and pursuant to the Charter of the city of San José.
- C. This chapter shall only apply in the event of the subdivision of land.
- D. Nothing in this chapter restricts the ability of the director to require dedication of land, payment of fees or construction of improvements for needs other than or in addition to neighborhood and community-serving parks.
(Ord. 25619.)

**Part 3
Requirements**

19.38.300 Requirements.

- A. Every residential subdivider shall dedicate land, pay a parkland fee in lieu of dedication, or both, for neighborhood and community park or recreational purposes in conformity with the conditions, provisions, standards and formulas contained in this chapter. Alternatively, a subdivider may satisfy the requirements of this chapter by entering into a parkland agreement for the construction of neighborhood and community park improvements pursuant to Section 19.38.410.
- B. Every tentative map and parcel map (if a tentative map was not required by the city engineer) for a residential project shall contain a condition requiring compliance with this chapter.
- C. Except where the condition required by subsection B. above is fully satisfied by dedication of land, such condition may be deemed satisfied where prior to approval of the parcel map or final map the subdivider has paid the parkland fees due in full or, in the alternative, has entered

into a binding parkland agreement with the city. Such agreement shall provide for the payment of fees and/or the construction of improvements. A parkland agreement for the construction of improvements may require the subdivider to pay fees to the city which are incidental to the construction of the improvements.

D. Failure to pay the parkland fees within the time specified in Section 19.38.370 or to construct improvements within the time set forth in the parkland agreement shall result in the imposition of additional charges as set forth in the resolution of the city council as well as loss of any credits previously granted pursuant to this chapter.
(Ords. 25619, 26734.)

19.38.310 Determination of land dedication and/or payment of parkland fees.

A. The director shall indicate on the tentative map whether the city will accept land dedication or require payment of a fee in lieu thereof, or a combination of both. The director's determination shall be based upon, but not limited to, consideration of the following:

1. The general plan of the city of San José;
2. The city's policies for the development of neighborhood and community-serving parks;
3. The topography, geology, access, and location of land in the subdivision that is suitable for the development of neighborhood and community parks;
4. The size and shape of the subdivision and land available for dedication;
5. The location of existing or proposed park sites and trailways.

B. The director shall consult with the director of public works and the director of the department charged with the administration of neighborhood and community-serving parks in making the determination whether to require the dedication of land.

C. Land to be dedicated shall not be of such size, shape, or location as to make the development of the subdivision unfeasible, and shall permit the balance of the subdivision to be developed in an orderly and efficient manner. The director shall determine the feasibility of all dedications pursuant to this section.

D. The subdivider, as required by the city, in addition to the land dedicated pursuant to subsection A., shall:

1. Provide reasonable improvements and access to the land dedicated including, but not limited to, full street improvements and utility connections such as curbs, gutters, street paving, traffic control devices, street trees, and sidewalks, to land which is dedicated pursuant to this chapter;

2. Provide for fencing along the property line of that portion of the subdivision contiguous to the dedicated land; and

3. Provide improved drainage through the site.

E. Prior to making a determination to require land dedication pursuant to subsection A. above, the director shall consult with the subdivider as to the desirability of requiring dedication rather than fees, as well as to the nature of any such dedication.

F. Notwithstanding subsection A. above, if the proposed subdivision contains fifty or fewer parcels and is not a condominium project, stock cooperative or community apartment project, the subdivider shall be allowed to pay parkland fees, as determined in accordance with Section 19.38.350.

G. If a phased project results in a total subdivision project of more than fifty parcels, the total project will be treated as one subdivision for purposes of this chapter and the director may require land dedication which could not have been otherwise required pursuant to subsection F. of this section.
(Ord. 25619.)

19.38.320 Formula for dedication of land.

A. The amount of land to be dedicated shall be determined pursuant to the following formula:

Minimum acreage dedication = .003 acres x Number of dwelling units x Average number of persons per dwelling unit

B. For the purposes of this section, the estimated residential population of the subdivision shall be determined on the basis of the type of dwelling unit allowed and the average household size for the dwelling unit as indicated in the most recent available federal census.

C. If the most recent federal census does not include information about the average household size for a particular type of dwelling unit, the city council may adopt a resolution specifying an average household size for that type of dwelling unit.
(Ords. 25619, 26658.)

19.38.330 Number and type of units designated.

A. The subdivider shall designate on the tentative map the maximum number of dwelling units for the subdivision. Subdividers of condominiums, community apartment projects or stock cooperative projects shall designate the maximum number of dwelling units for the purposes of this chapter only, and such designation shall not, in accordance with Government Code Section 66427, constitute an approval of the design or location of the units. If the number is not designated, the total number of dwelling units shall be the maximum number of such units

permitted by the city's general plan, or existing zoning, whichever is greater, on the land included within the proposed subdivision at the time the city approves the tentative map.

B. The subdivider shall designate on the tentative map the dwelling unit type of each dwelling. If the dwelling unit type is not designated by the subdivider, the dwelling unit type which yields the highest subdivision population shall be used to determine the subdivision population. (Ord. 25619.)

19.38.340 Additional dedication or payment requirement for additional units.

The subdivider shall be required to dedicate additional land and/or pay additional fees pursuant to the provisions of this chapter, if at any time after the recordation of the final map there is an increase in the number of units to be built or a change in the dwelling unit type designated pursuant to Section 19.38.060 which results in an increase in density. The additional fees, in accordance with Section 19.38.350, shall be the fees in effect at the time of payment. (Ord. 25619.)

19.38.350 Fee in lieu of land dedication.

When a parkland fee is to be paid in lieu of land dedication, the subdivider shall pay as set forth in the schedule of fees established by council resolution. (Ord. 25619.)

19.38.360 Land dedication procedure.

A. Where a dedication of land is required, it shall be accomplished in accordance with the provisions of the California Subdivision Map Act and this title.

B. Real property dedicated to the city shall be conveyed by grant deed, free and clear of encumbrances. Deeds, in a form acceptable to the director of public works, shall be given to the director at the time the final subdivision map or final parcel map, for which the deeds are given, is submitted for approval, unless the parkland agreement specifies a different procedure for transmittal of the grant deed.

C. If a subdivision map or a final parcel map is rejected by the city or withdrawn by a subdivider prior to the city's approval, the deeds shall be returned to the subdivider. If the map is approved, the deeds received will be recorded by the director.

D. The subdivider shall provide all instruments required to convey the land and shall also provide a preliminary title report and title insurance in favor of the city in an amount equal to the value of the property being conveyed as estimated by the city. (Ord. 25619.)

19.38.370 Fee payment procedure.

A. When payment of the parkland fee in lieu of dedication of land is required by this chapter, the subdivider may pay the parkland fees due on the subdivider's project in full prior to city's approval of the parcel map or final map. Alternatively, as a condition of city's approval of the subdivider's final map or parcel map, the subdivider shall enter into a parkland agreement with the city which provides for payment of the parkland fees in full, concurrent with the issuance of the first building permit for the subdivider's project, but no later than one year after city's approval of the subdivider's final or parcel map. No building permit shall be issued for property for which payment of parkland fees is a prerequisite until such parkland fees have been paid in full.

B. Subdivisions for which parkland fees required under this chapter have been paid in full shall not be required to pay additional fees under this chapter except to the extent required for any additional or changed residential units pursuant to Section 19.38.340.

C. The parkland fee to be paid shall be the fee set by resolution of the city council in effect at the time of payment.
(Ord. 25619.)

19.38.380 Appeals.

The subdivider may appeal any condition imposed pursuant to this chapter. The appeal procedure shall be as set forth in Section 19.12.230 of this title.
(Ord. 25619.)

19.38.390 Disposition of fees.

A. Parkland fees shall be deposited into the park trust fund. Money in the park trust fund, including accrued interest, shall be expended solely for development or renovation of neighborhood and community-serving parks or the neighborhood and community-serving elements of regional parks to serve the subdivision for which the fees were paid.

B. Parkland fees collected pursuant to this chapter shall be committed by the city for a specific project to serve residents of the subdivision. Such commitment shall be in a budgetary year within five years of receipt of payment or within five years after the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later.

C. If parkland fees are not committed as specified in subsection B., these fees shall be distributed and paid to the then record owners of the subdivision in the same proportion that the sizes of their lots bear to the total area of all lots in the subdivision.

D. The director of finance shall report to the city council at least annually on income, expenditures, and status of the park trust fund.
(Ord. 25619.)

19.38.395 Sale of dedicated land.

If during the time between dedication of land for park purposes and commencement of development, circumstances arise which indicate that another site would be more suitable for local park or recreational purposes serving the subdivision, the land may be sold upon the approval of the city council with the proceeds being deposited in the park trust fund and used as provided in Section 19.38.390.

(Ord. 25619.)

Part 4 Credit Requirements

19.38.400 Credit for private recreation improvements.

A. No credit shall be given for private recreation improvements in the subdivision except as provided in this section.

B. A community apartment complex, planned development or real estate development, as defined in Sections 11003 and 11003.1 of the California Business and Professions Code, shall be eligible for a partial credit against the requirements of this chapter.

C. Credit will be given only when the subdivider has agreed to construct the eligible improvements and has entered into a parkland agreement which requires construction of the improvement within a specified time period.

D. The amount of the credit and the improvement eligible for credit shall be determined pursuant to the schedule of credits adopted by resolution of the city council. The total credit shall not exceed fifty percent of the dedication requirement.

E. Private recreation improvements shall be owned by:

1. An incorporated nonprofit homeowners association composed of all property owners in the subdivision and any of the subdivisions annexed into the association, and which is an organization, operated under recorded land agreements through which each lot owner in the subdivision is automatically a member, and each lot is subject to a charge for a proportionate share of expenses for maintaining the facilities; or

2. In the case of apartments, the owner of the parcel(s).

F. Use of the private recreation improvements shall be restricted for recreation purposes by a recorded covenant which runs with the land in favor of the future owners of the property and which expressly cannot be defeated or eliminated without the consent of the city.

(Ord. 25619.)

19.38.410 Subdivider credit for public park and recreation improvements.

A. The subdivider may enter into a parkland agreement which obligates the subdivider to make public park and recreation improvements to property dedicated by the subdivider to the city or to existing city neighborhood or community parks in exchange for credit towards subdivider's dedication requirements. Credit will be granted up to the actual cost of the improvements in accordance with this section.

B. In order for public park improvements to be eligible for credit, the director must find that the improvements are consistent with the city's park construction standards, policies and practices and that it is in the best interest of the city to accept the improvements.
(Ord. 25619.)

19.38.420 Credit for school district property and public agency property.

A. Real property dedicated by the subdivider for a new public school will be eligible for credit equal to its square footage if the following requirements are met:

1. The real property dedicated to the school district meets the requirements for dedication for neighborhood and community park purposes as specified in Section 19.38.310; and
2. The dedicated real property is improved with public park improvements in accordance with city's standards; and
3. The school district grants an easement to the city in a form acceptable to the city attorney which restricts the improved school property for public park and open space purposes.

B. Credit for public agency property will be eligible for credit equal to its square footage if the following requirements are met:

1. The public agency property meets the requirements for dedication for neighborhood and community park purposes as specified in Section 19.38.310; and
2. The public agency property is improved with public park improvements in accordance with city's standards; and
3. The public agency grants an easement to city in a form, acceptable to city's attorney, which allows use of the property for public park and open space purposes; and
4. The public agency property is no more than fifty percent of an improved park site dedicated to the city pursuant to this chapter.

(Ord. 25619.)

19.38.430 Credit for public park and recreation improvements by assessment districts.

The subdivider may propose that a special assessment district be created which will meet or exceed the requirements of this chapter. If the city agrees, and such an assessment district is formed and land and improvement dedicated, the subdivider's obligation under this chapter will be deemed satisfied.

(Ord. 25619.)

**Part 5
Exemptions**

19.38.510 Downtown area exemption.

A. Subdivisions located in the downtown area shall be exempt from the requirements of this chapter.

B. This section shall remain in effect only until July 1, 2001, unless the council takes further action by ordinance to amend or repeal this section.

(Ords. 25619, 25678, 25679.)

19.38.520 Low-income unit exemption.

Effective January 1, 2006 low-income units will be exempt from the requirements of this chapter.

(Ords. 25619, 26422, 27160, 27274.)

19.38.530 Low-income unit payment procedure.

A. A subdivider of a subdivision including low-income units will be required to pay the parkland fees for the low-income units unless the subdivider presents a low-income unit voucher at the time the final map is filed.

B. This section will remain in effect only until December 31, 2005, unless the council takes further action by ordinance to amend or repeal this section.

(Ords. 25619, 26422, 27160, 27274.)

**Part 6
Residential Care Facilities for the Elderly**

19.38.600 Residential care facilities for the elderly.

Residential care facilities for the elderly that meet the requirements set forth in this ordinance shall be eligible to defer the obligation to pay the parkland fee.

(Ord. 25619.)

19.38.610 Eligibility for deferment.

In order to be eligible for the deferment of payment of the parkland fee, a residential care facility for the elderly must meet the following requirements:

A. One hundred percent of the residential units included in the residential care facility for the elderly must be covered by the license issued by the State of California to provide care to non-ambulatory elderly residents prior to occupancy of the first unit.

B. The residential care facility for the elderly must provide the following care and have the following attributes:

1. Assistance in dressing, grooming, bathing and other personal hygiene;
 2. Assistance with taking medication;
 3. Central storing and distribution of medication;
 4. Arrangement of and assistance with medical and dental care, including transportation of residents to doctor or dentist appointments;
 5. Supervision of resident schedules and activities;
 6. Monitoring of food intake and special diets;
 7. Designed for residents who are physically incapable of travel outside the facility without personal assistance from the staff; and
 8. Residents receive transportation assistance from the facility on a limited basis for required activities such as medical appointments.
- (Ord. 25619.)

19.38.620 Deferment requirements.

A. The owner of the property on which the residential care facility for the elderly is to be constructed may enter into a written agreement with the city in order to defer the payment of the parkland fee until such time that the residential care facility for the elderly no longer meets the eligibility requirements of Section 19.38.610. The agreement shall be recorded in the Santa Clara county recorder's office.

B. The deferred fees shall earn interest at the same rate earned by city's pooled funds.

C. At the time that the residential care facility for the elderly ceases to meet the eligibility requirements set forth in Section 19.38.610, the owner of the property on which the residential care facility for the elderly is constructed shall be responsible for payment of the deferred fees including the interest earned on those fees during the deferment period.
(Ord. 25619.)

Chapter 19.40

MISCELLANEOUS REQUIREMENTS ENFORCEMENT ₈

19.40.010 Dedication and improvement requirements for land not a subdivision of five or more lots.

A. Notwithstanding any provisions of this title to the contrary, whenever the director requires improvements for a division of land which is not a subdivision within the meaning of Subdivision Map Act of five or more lots, dedication and improvement requirements shall be limited to rights- of-way, easements and the construction of reasonable off-site and on-site improvements for the parcels being created.

B. Requirements for the construction of such off-site and on-site improvements shall be noticed by certificate on the parcel map, on the instrument evidencing the waiver of such parcel map or by separate instrument, and shall be recorded on, concurrently with, or prior to the parcel map or instrument of waiver of a parcel map being filed for record. The construction of such improvements shall be required prior to subsequent issuance of a permit or other grant of approval for the development of such parcel by the city.

C. Fulfillment of such construction requirements shall not be required until such time as a permit or other grant of approval for development of the parcel is issued by the city, except that the city may require fulfillment of such construction requirements within a reasonable time following approval of the parcel map and prior to the issuance of a permit or other grant of approval for the development of a parcel upon a finding by the director that fulfillment of the construction requirements is necessary for reasons of:

1. The public health and safety; or
 2. The required construction is a necessary prerequisite to the orderly development of the surrounding area.
- (Prior code § 9294; Ord. 18570.)

19.40.020 Merger of parcels.

A. Requirements for Parcel Merger. A parcel or unit shall merge with a contiguous parcel or unit held by the same owner if all of the following requirements are satisfied.

1. At least one of the affected parcels is not developed with a structure, other than an accessory structure, for which a building permit was issued by the city, or which was built prior to the time such permits were required by the city.
2. With respect to any affected parcel, one or more of the following conditions exists:
 - a. Comprises less than five thousand square feet in area at the time of the determination of merger.

- b. Was not created in compliance with applicable laws and ordinances in effect at the time of its creation.
- c. Does not meet current standards for sewage disposal and domestic water supply.
- d. Does not meet slope stability standards.
- e. Has no legal access which is adequate for vehicular and safety equipment access and maneuverability.
- f. Its development would create health or safety hazards.
- g. Is inconsistent with the city's general plan, as amended, and any applicable specific plan, other than minimum lot size or density standards.

B. Procedures for Parcel Merger. Contiguous parcels or units shall be deemed merged only if all the procedural, notification and hearing requirements specified in Chapter 3, Article 1.5 of the State Subdivision Map Act have been satisfied.
(Prior code § 9295; Ords. 18570, 19215, 22126.)

19.40.025 Combining of contiguous parcels under common ownership.

Up to four contiguous parcels under common ownership may be combined into one parcel, whether or not they meet the requirements of Section 19.40.020 of this title, provided that:

- A. The owner of such parcels submits in writing, on a form provided by the director, a request that city approve such merger. The written request is to be accompanied by:
 - 1. Preliminary title report verifying single ownership of said contiguous parcels.
 - 2. A single legal description of merged parcels.
 - 3. A legible map, no smaller than eight and one-half by eleven inches nor larger than eight and one-half by fourteen inches, clearly showing existing parcels and proposed new combined parcel.
 - 4. A fee in accordance with the schedule of fees resolution adopted by the city council establishing fees and charges for this chapter.
- B. No public or private dedications of land or easement rights, or the installation of any public improvements, at the discretion of the director, are necessary or desirable adjuncts to the proposed combining of parcels; and
- C. Said combining of parcels is a requirement of a development permit issued by city pursuant to Title 20 of the Municipal Ordinances; and

D. The proposed combining is considered by the director at a public hearing which has been noticed pursuant to Sections 66451.3 and 66451.4 of the state Map Subdivision Act; and

E. The director, having final authority, approves said merger and causes the appropriate documents to be recorded with the county recorder.
(Ord. 22126.)

19.40.030 Separate parcels.

No land shall be subdivided on any tentative, final or parcel map when such land is separated or divided into two or more parcels or portions by any parcel of land other than a street, freeway, alley, pedestrian way or a railroad, public utility or flood control right-of-way, and when such land is so separated each separate parcel or portion thereof, if subdivided, shall be subdivided as a separate parcel and shown on a separate tentative, final or parcel map.
(Prior code § 9227.)

19.40.040 Compliance with zoning ordinance.

If there is any conflict between the provisions of this title and the provisions of Title 20 of this Code, the provisions of Title 20 shall govern and control. Every division of land subject to the provisions of this Title 19 shall comply in all respects with the provisions of Title 20 of this code, and the director shall not approve any tentative map unless the same complies in all respects with the provisions of said Title 20.
(Prior code § 9287.)

19.40.050 Lands covered by a cluster permit - Effect.

If a cluster permit has been issued pursuant to the provisions of Title 20 as they existed prior to October 3, 1985, and is effective, the director may approve a tentative map for such lands even though such tentative map does not comply with all of the provisions of all of the other sections of this Title 19; provided, that such tentative map must conform to and comply in all respects with such cluster permit; and provided further, that such approval of any portion of the lands covered by such tentative map on which a final map has not yet been recorded shall become void if such cluster permit lapses or otherwise becomes void.
(Prior code § 9284; Ords. 22126, 22152.)

19.40.060 Land covered by a low-density cluster permit -Effect.

Whenever the director, acting pursuant to and in accordance with Chapter 20.100 of this code, shall have issued a low-density cluster permit pursuant to the provisions of Title 20 as they existed prior to October 3, 1985, which complies in all respects with said Chapter 20.100, Parts 1 and 6, and such permit shall have become effective in accordance with said Chapter 20.100, Parts 1 and 6, then in that event the director may approve a tentative map for such lands even though such tentative map does not comply with all of the provisions of all of the other sections of this Title 19; provided that such tentative map must conform to and comply in all respects

with such low-density cluster permit; and provided further, that such approval of the tentative map shall lapse and shall become null and void with respect to any portion of the lands covered by such tentative map on which a final map has not yet been recorded, if prior to recordation of a final map thereon, the low-density cluster permit for such lands lapses and becomes null and void or for any other reason ceases to be operative.
(Prior code § 9285; Ords. 22126, 22152.)

19.40.080 Denial of permit to develop - Forty-acre lots fronting coastline or shoreline.

The city shall not issue any permit or grant any approval necessary to develop any parcel or parcels of land divided into lots or parcels after December 31, 1969, each of a gross area of forty acres or more when such lots or parcels front on the coastline or shoreline, unless the director finds that reasonable public access has been provided from highways to land below the ordinary high-water mark or any ocean coastline or bay shoreline, or any water of a lake or reservoir upon which the lots or parcels front. The director shall, in determining whether such reasonable public access has been provided, use the criteria set forth in subsections D. and E. of Section 19.12.180 and subsections D. and E. of Section 19.12.190 of this code.
(Prior code § 9288.1.)

19.40.090 Denial of permit to develop - Land divisions violative of this title.

A. The city shall not issue any permit or grant any approval necessary to develop any real property which has been divided, or which has resulted from a division in violation of the provisions of the Subdivision Map Act or of the provisions of this title if it finds that development of such real property is contrary to the public health or the public safety. The authority to deny such a permit or such approval shall apply whether the applicant therefor was the owner of record of the real property at the time of such violation or whether the applicant therefor is either the current owner of record or a vendee of the current owner of record pursuant to a contract of sale of the real property with, or without, actual or constructive knowledge of the violation at the time of the acquisition of his interest in such real property.

B. If the city issues a permit or grants approval for the development of any such real property, it may impose those conditions that would have been applicable to the division of the property at the time the applicant acquired his interest in such real property, and which had been established at such time by the Subdivision Map Act or local ordinance enacted pursuant thereto, except that if a conditional certificate of compliance has been filed for record under the provisions of subsection B. of Section 19.40.100, only such conditions stipulated in that certificate shall be applicable.

(Prior code § 9288; Ords. 18570, 19215.)

19.40.100 Certificates of compliance.

A. Any person owning real property, or a vendee of such person pursuant to a contract of sale of such real property may request, and the city shall determine, whether such real property complies with the provisions of the Subdivision Map Act and this title. Each request for such a determination of compliance shall be accompanied by a processing fee in the amount set forth in

the schedule of fees established by resolution of council. Upon making such a determination, the city shall cause a certificate of compliance, executed by the city engineer and the director, to be filed for record with the recorder of the county in which such real property is located. The certificate of compliance shall identify the real property and shall state that the division thereof complies with applicable provisions of the Subdivision Map Act and this title.

B. If the city determines that such real property does not comply with the provisions of the Subdivision Map Act or this title, it may, as a condition of granting a certificate of compliance, impose such conditions as would have been applicable to the division of the property at the time the applicant acquired his interest therein, and which had been established at such time by the Subdivision Map Act or local ordinance enacted pursuant thereto. Upon making such a determination and establishing such conditions, the city shall cause a conditional certificate of compliance to be filed for record with the recorder of the county in which such real property is located. Such certificate shall serve as notice to the property owner or vendee who has applied for the certificate pursuant to this section, a grantee of the property owner, or any subsequent transferee or assignee of the property, that the fulfillment and implementation of such condition shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property. Compliance with such conditions shall not be required until such time as a permit or other grant of approval for development of such property is issued by the city.

C. A certificate of compliance shall be issued for any real property which has been approved for development pursuant to Section 19.40.090.

D. A recorded final subdivision map or parcel map shall constitute a certificate of compliance with respect to the parcels of real property described therein.
(Prior code § 9290; Ords. 20641, 21029, 21045, 21298.)

19.40.110 Notice of violation - Procedures for recording.

Whenever the city has knowledge that real property has been divided in violation of the provisions of this division or of local ordinances enacted pursuant to this division, it shall cause to be mailed by certified mail to the then current owner of record of the property a notice of intention to record a notice of violation, describing the real property in detail, naming the owners thereof, and describing the violation, and stating that an opportunity will be given to the owner to present evidence. The notice shall specify a time, date, and place for a meeting at which the owner may present evidence to the director why the notice should not be recorded.

The meeting shall take place no sooner than thirty days and no later than sixty days from date of mailing. If, within fifteen days of receipt of the notice, the owner of the real property fails to inform the city of his or her objection to recording the notice of violation, the director shall record the notice of violation with the county recorder. If, after the owner has presented evidence, it is determined that there has been no violation, the city shall mail a clearance letter to the then current owner of record. If, however, after the owner has presented evidence, the director determines that the property has in fact been illegally divided, the director shall record the notice of violation with the county recorder. The notice of violation, when recorded, shall be

deemed to be constructive notice of the violation to all successors in interest in such property. The county recorder shall index the names of the fee owners in the general index. (Prior code § 9289; Ords. 18570, 19215, 22126.)

19.40.120 Lot line correction - Correction permitted when.

After a lot line adjustment is approved and still within its permit time period, it may be amended by a lot line correction in the following instances:

- A. To correct an error in any course of distance shown thereon; or
 - B. To show any course or distance shown that was omitted therefrom; or
 - C. To correct an error in the description of the real property shown on the map; or
 - D. To correct any other type of map error or omission as approved by the director or city council which does not affect any property right.
- (Ord. 26635.)

19.40.125 Fee for lot line adjustment or correction.

All requests for lot line adjustments as described in Section 19.08.440 or lot line corrections allowed under Section 19.40.120 shall be accompanied by a processing fee as set forth in the schedule of fees established by resolution of the city council.

(Ord. 26635.)

Endnotes

- 8. For statutory provisions on enforcement and review of the Subdivision Map Act, see Gov. Code § 66499.30 et seq.

Chapter 19.44

VIOLATIONS AND PENALTIES

19.44.010 Acts constituting violations - Voidable by buyer when.

A. Any deed of conveyance, sale or contract to sell real property which has been divided or which has resulted from a division in violation of the provisions of the Subdivision Map Act or of this Title 19 is voidable at the sole option of the grantee, buyer or person contracting to purchase, his heirs, personal representative or trustee in insolvency or bankruptcy within one year after the date of discovery of the violation of the Subdivision Map Act or of this title, but the deed of conveyance, sale or contract to sell is binding upon any successor in interest of the grantee, buyer or person contracting to purchase, other than those above enumerated, and upon the grantor, vendor or person contracting to sell, or his assignee, heir or devisee.

B. Any grantee, or his successor in interest, of real property which has been divided or which has resulted from a division in violation of the provisions of the Subdivision Map Act or of this title may, within one year of the date of discovery of such violation, bring an action in the Superior Court to recover any damages he has suffered by reason of such division of property. The action may be brought against the person who divided the property in violation of the provisions of the Subdivision Map Act or of this title, and against any successors in interest who have actual or constructive knowledge of such division of property.

C. The provisions of this section shall not apply to the conveyance of any parcel of real property identified in a certificate of compliance filed pursuant to Section 19.40.100, or identified in a recorded final subdivision map or parcel map, from and after the date of recording. The provisions of this section shall not limit or affect in any way the rights of a grantee or his successor in interest under any other provision of law.

(Prior code § 9291.)

19.44.020 Acts constituting violations - Designated and deemed misdemeanors.

A. No person shall sell or lease, or offer to sell or lease, to contract to sell or lease, or to finance any parcel or parcels of real property or to commence construction of any building for sale, lease or financing thereon, except for model homes, or to allow occupancy thereof, for which a final map is required until such map thereof, in full compliance with the provisions of the Subdivision Map Act and this title, has been filed for record by the recorder of the county in which any portion of the subdivision is located.

B. No person shall sell, lease or finance any parcel or parcels of real property or commence construction of any building for sale, lease or financing thereon, except for model homes, or allow occupancy thereof, for which a parcel map is required until such map thereof in full compliance with the provisions of the Subdivision Map Act and this title has been filed for record by the recorder of the county in which any portion of the subdivision is located.

C. Conveyances of any part of a division of real property for which a final or parcel map is required shall not be made by parcel or block number, initial or other designation, unless and until such map has been filed for record by the recorder of the county in which any portion of the subdivision is located.

D. This section does not apply to any parcel or parcels of a subdivision offered for sale or lease, contracted for sale or lease, or sold or leased in compliance with or exempt from any law (including this Title 19), regulating the design and improvement of subdivisions in effect at the time the subdivision was established.

E. Any person who violates any provision of this section shall be guilty of a misdemeanor. (Prior code § 9291.1.)

19.44.030 Other remedies for violations.

The city, or other public agency, or any person, firm or corporation that may otherwise be entitled, may file a suit in the superior court of the county in which any real property attempted to be subdivided or sold, leased or financed in violation of the Subdivision Map Act is located, to restrain or enjoin any attempted or proposed subdivision or sale, lease or financing in violation of the Subdivision Map Act. (Prior code § 9292.)

DIAGRAMS FOR TITLE 19

DIAGRAMS FOR SECTION 19.36.030

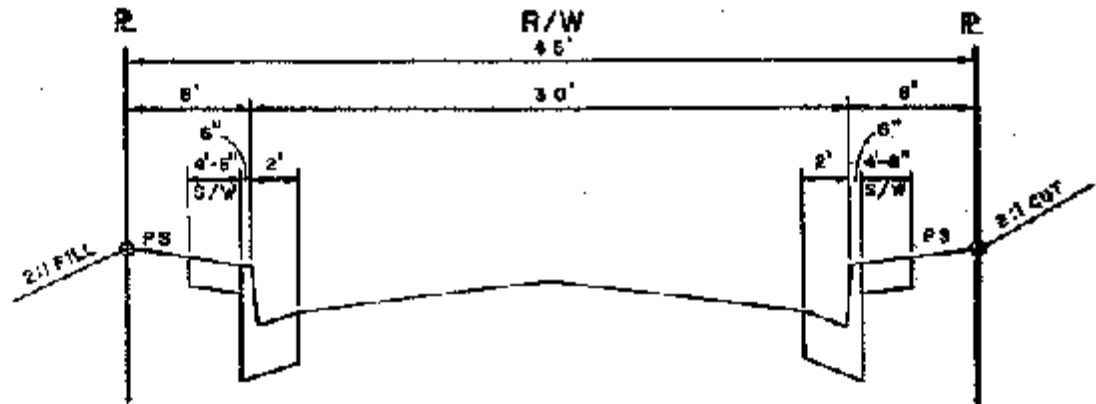
R/W = Right-of-Way
PS = Planting Strip
PL = Property Line
S/W = Sidewalk
RW = Roadway
M = Median

VARIES = Means that the width may vary according to the natural slope of the terrain on which the particular street is located, and provided that the cut slopes on said streets shall not exceed two to one (2 to 1) unless otherwise recommended by the soil engineer and/or geologist and approved by the city engineer.

NOTES:

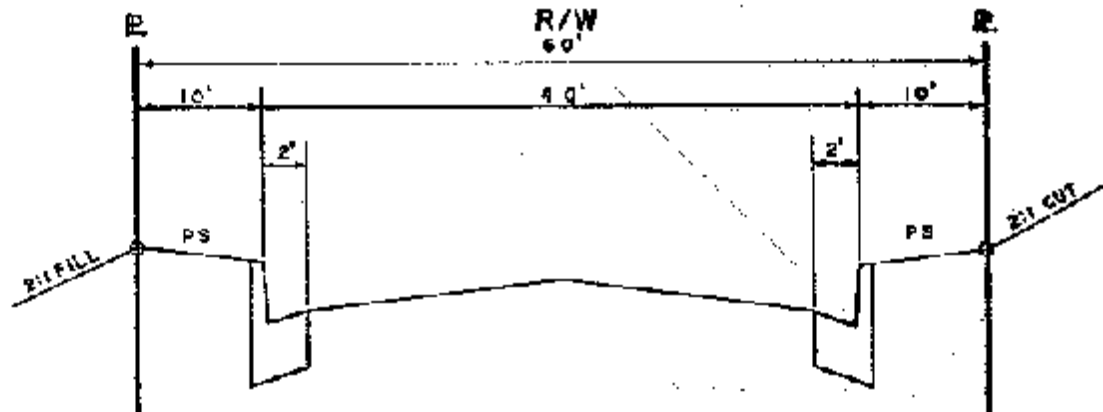
- (1) All standard cross-sections shown, except hillside cross-sections, shall be those used in all areas other than hillside and may be used in hillside areas if adjacent development allows. Standards marked “hillside” shall be used in hillside areas only.
- (2) One-way streets shall be designed and constructed as directed by the director. In no case will the right-of-way be less than fifty feet.

MINOR STREETS



SHORT CUL-DE-SAC STREETS

LESS THAN 415 FEET LONG WITH
38 FOOT RIGHT OF WAY RADIUS AND
APPROVAL BY THE FIRE CHIEF

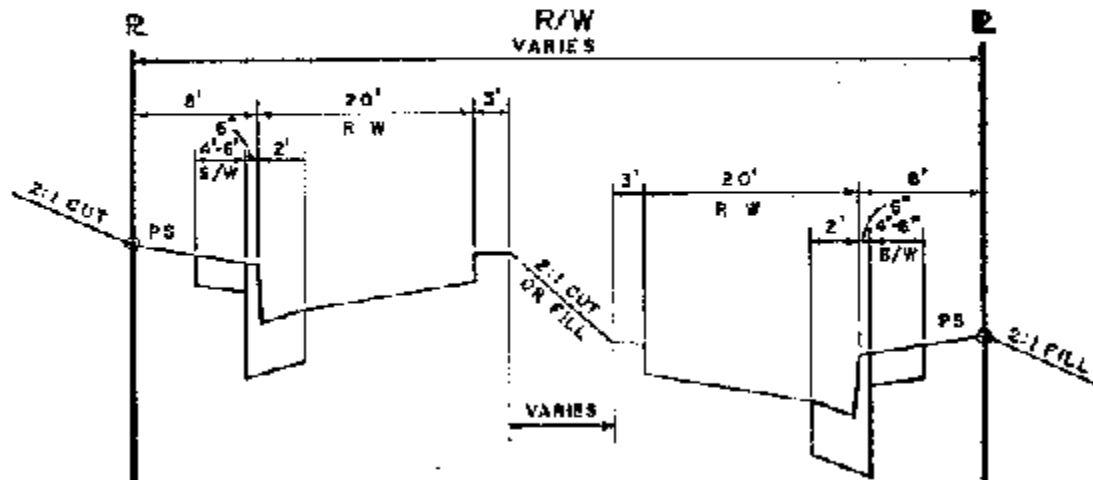


MINOR STREETS

INDUSTRIAL DEVELOPMENT

CONDITION:

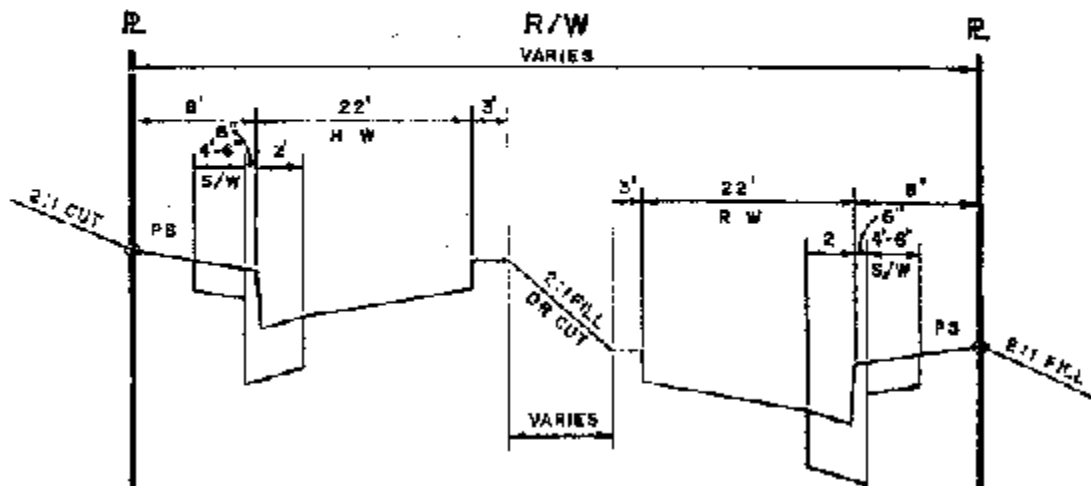
1. NO PARKING ON STREET. PARKING REQUIREMENTS MUST BE MET ON SITE.
2. APPROVAL SUBJECT TO RECOMMENDATION OF DIRECTOR OF PUBLIC WORKS.



MINOR STREETS (SPLIT LEVEL)

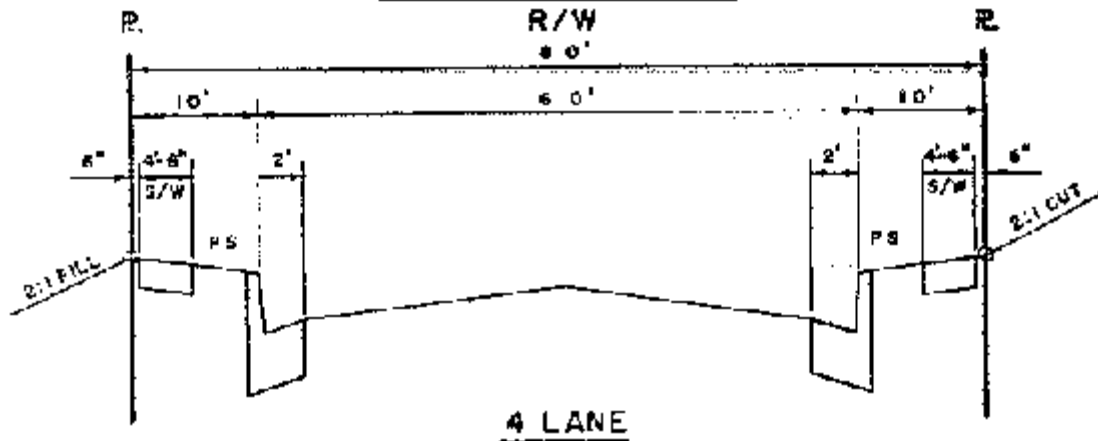
Ord. 18199

COLLECTOR STREETS

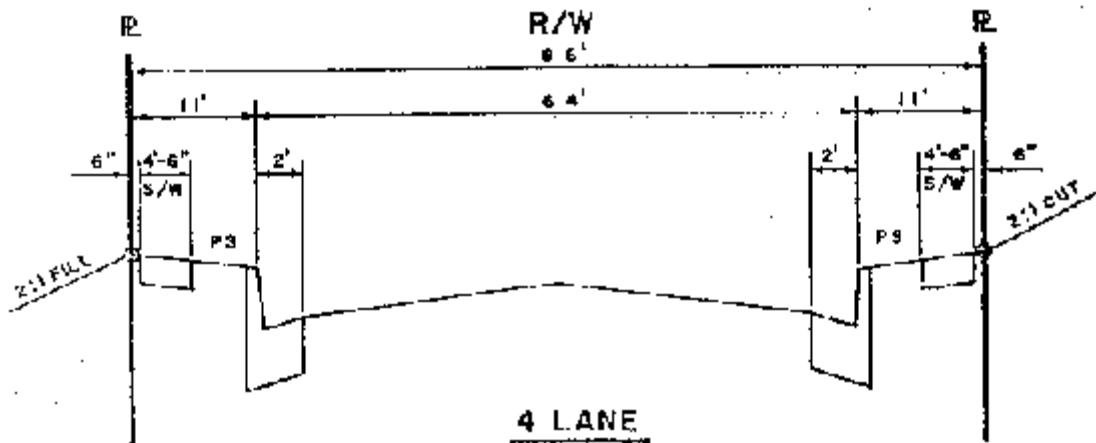


SPLIT LEVEL

MAJOR STREETS

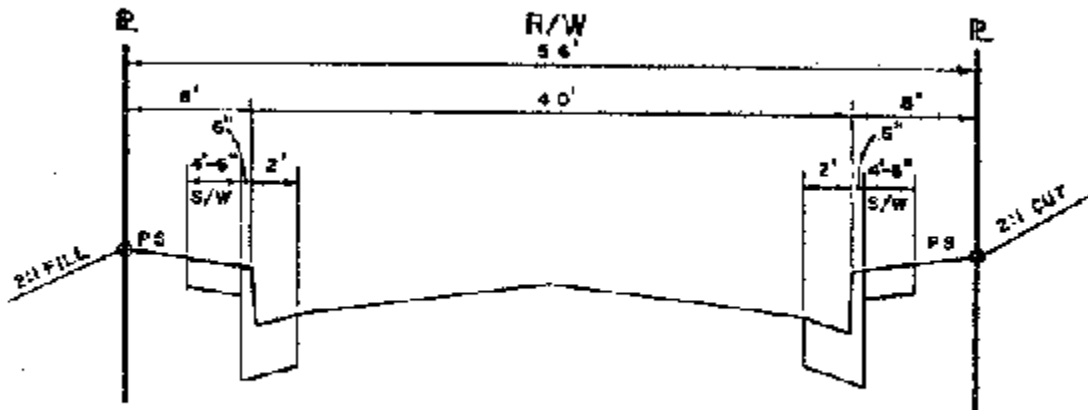


FOR USE ON EXISTING 80' MAJOR STREETS AND MAJOR STREETS TO BE WIDENED IN ACCORDANCE WITH ESTABLISHED 80' RIGHT-OF-WAY LINES. NOT TO BE USED FOR NEW MAJOR STREETS. SHALL BE USED FOR STREETS SERVING INDUSTRIAL AREA.



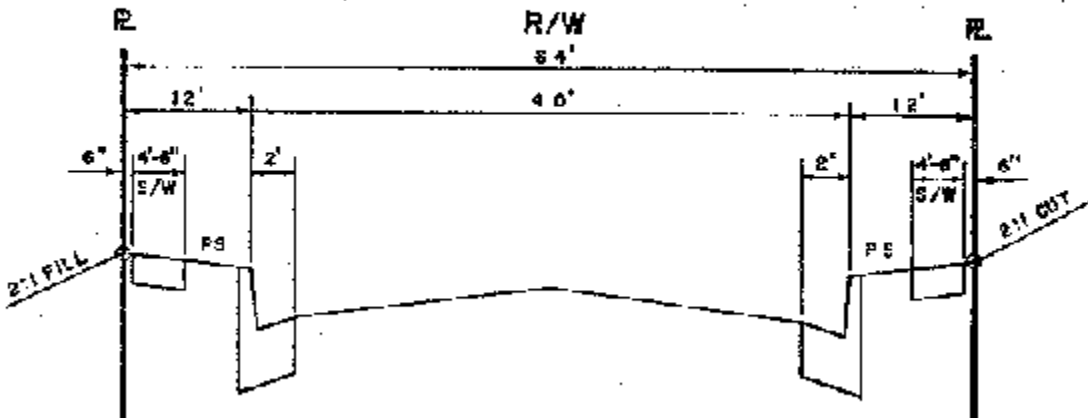
FOR USE ON EXISTING 86' MAJOR STREETS AND MAJOR STREETS TO BE WIDENED IN ACCORDANCE WITH ESTABLISHED 86' RIGHT-OF-WAY LINES. NOT TO BE USED FOR NEW MAJOR STREETS.

COLLECTOR STREETS



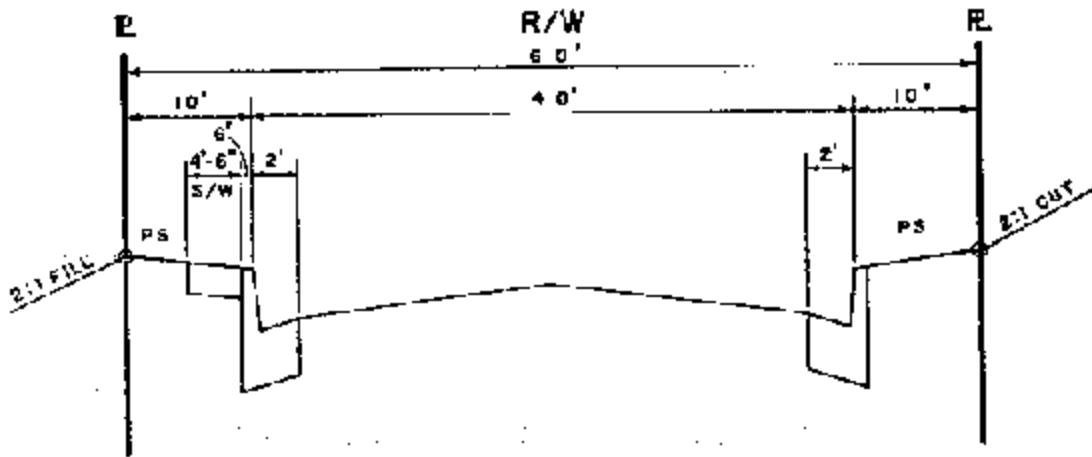
2 LANES UNDIVIDED (A)

2 LANES UNDIVIDED (B) MAY BE
USED INSTEAD OF THIS STANDARD
SUBJECT TO SECTION 9270



2 LANES UNDIVIDED (B)

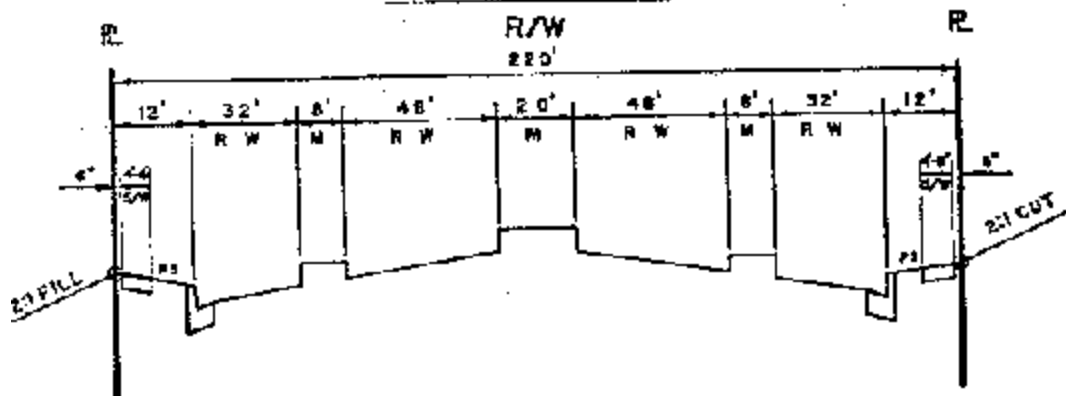
2 LANES UNDIVIDED (A) MAY BE
USED INSTEAD OF THIS STANDARD
SUBJECT TO SECTION 9270



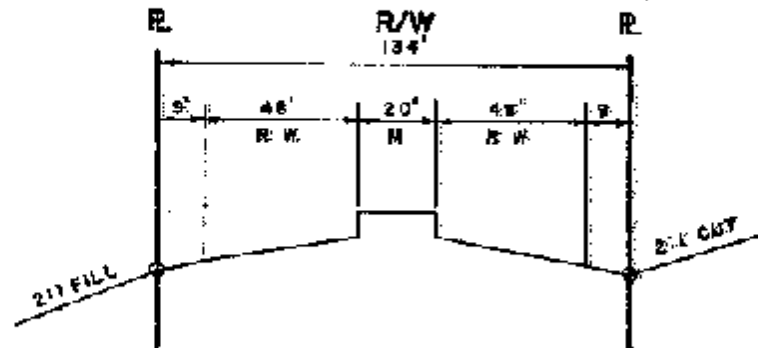
2 LANES UNDIVIDED (HILLSIDE)

Ord. 18199

EXPRESSWAY



EXPRESSWAY WITH FRONTAGE ROAD



EXPRESSWAY WITHOUT FRONTAGE ROAD

(SIDEWALKS SHALL NOT BE REQUIRED)

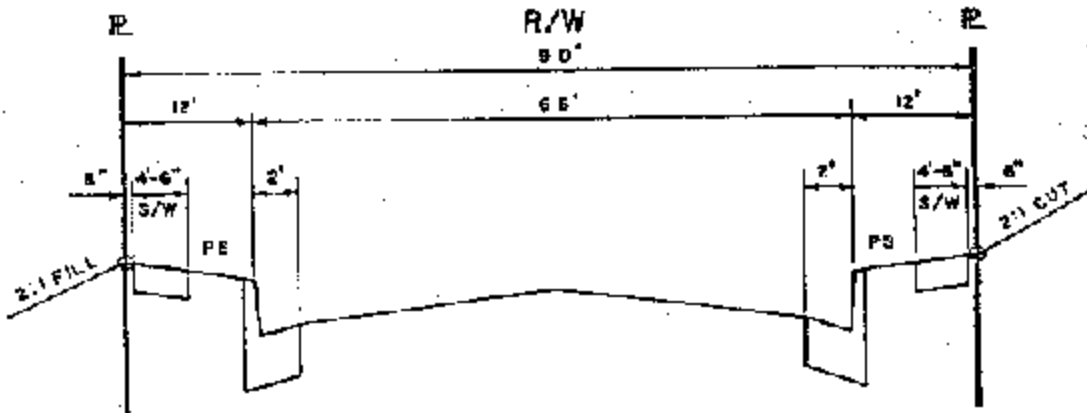
R/W = RIGHT OF WAY
 PS = PLANTING STRIP
 R = PROPERTY LINE
 S/W = SIDEWALK
 RW = ROADWAY
 M = MEDIAN

VARIES = MEANS THAT THE WIDTH MAY VARY ACCORDING TO THE NATURAL SLOPE OF THE TERRAIN ON WHICH THE PARTICULAR STREET IS LOCATED, AND PROVIDED THAT THE CUT SLOPES ON SAID STREETS SHALL NOT EXCEED 2 TO 1 UNLESS OTHERWISE RECOMMENDED BY THE SOIL ENGINEER AND/OR GEOLOGIST AND APPROVED BY THE CITY ENGINEER.

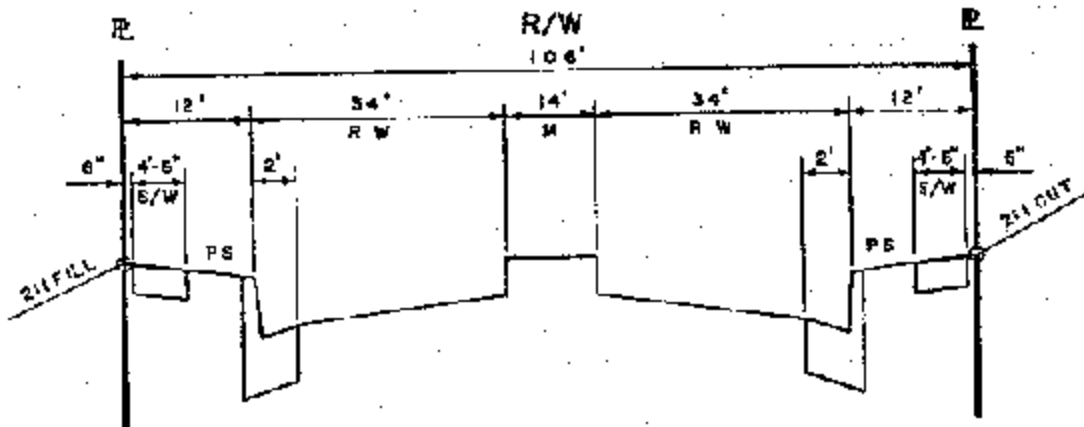
NOTES:

1. ALL STANDARD CROSS-SECTIONS SHOWN EXCEPT HILLSIDE CROSS-SECTIONS SHALL BE THOSE USED IN ALL AREAS OTHER THAN HILLSIDE AND MAY BE USED IN HILLSIDE AREAS IF ADJACENT DEVELOPMENT ALLOWS. STANDARDS MARKED HILLSIDE SHALL BE USED IN HILLSIDE AREAS ONLY.
2. ONE-WAY STREETS SHALL BE DESIGNED AND CONSTRUCTED AS DIRECTED BY THE DIRECTOR. IN NO CASE WILL THE RIGHT-OF-WAY BE LESS THAN 80'.

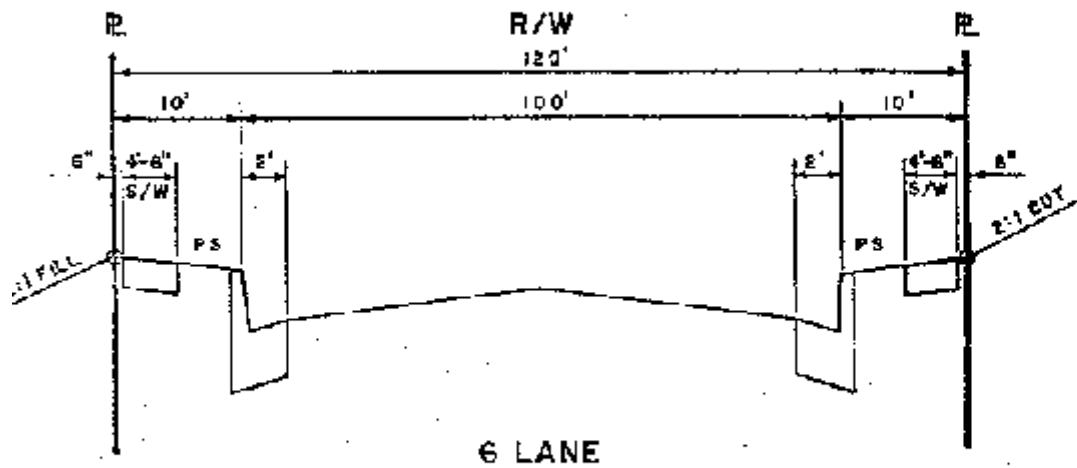
MAJOR STREETS



4 LANES UNDIVIDED



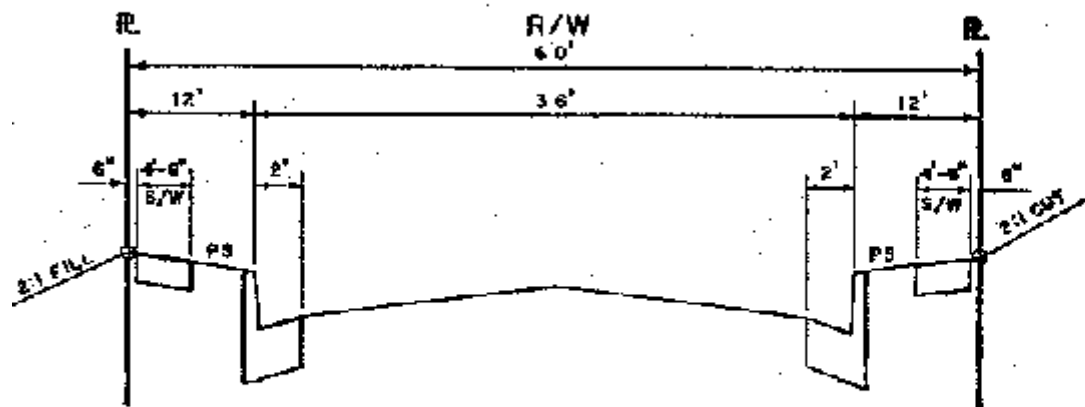
4 LANES DIVIDED



FOR USE ON EXISTING 120' MAJOR STREETS, AND MAJOR STREETS TO BE WIDENED IN ACCORDANCE WITH ESTABLISHED 120' RIGHT-OF-WAY LINES. NOT TO BE USED FOR NEW MAJOR STREETS.

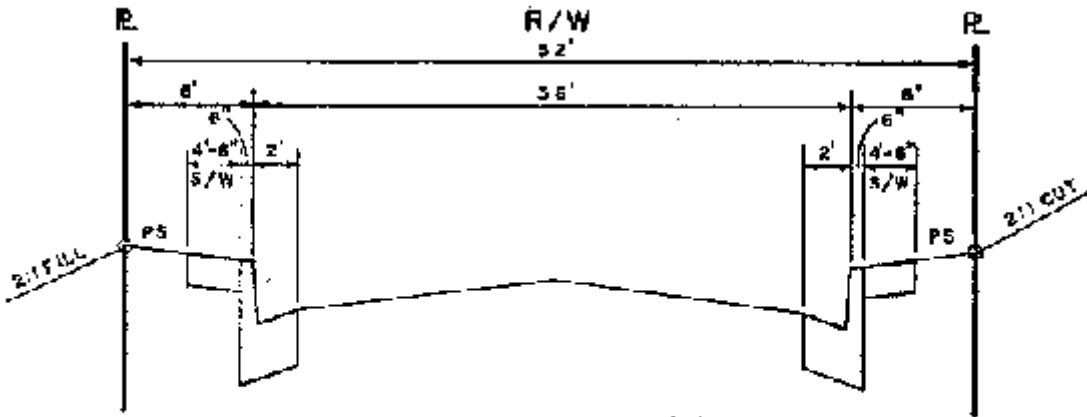
Ord. 18199

MINOR STREETS



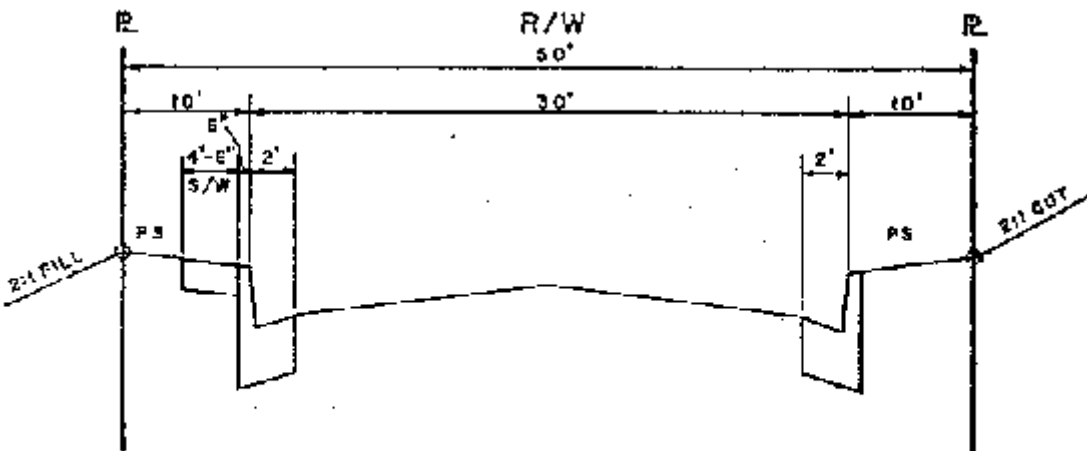
MINOR STREETS (A) OR CUL-DE-SAC STREETS

MINOR STREETS (B) MAY BE USED INSTEAD OF THIS STANDARD FOR MINOR STREETS ONLY, SUBJECT TO SECTION 9270



MINOR STREETS (B)

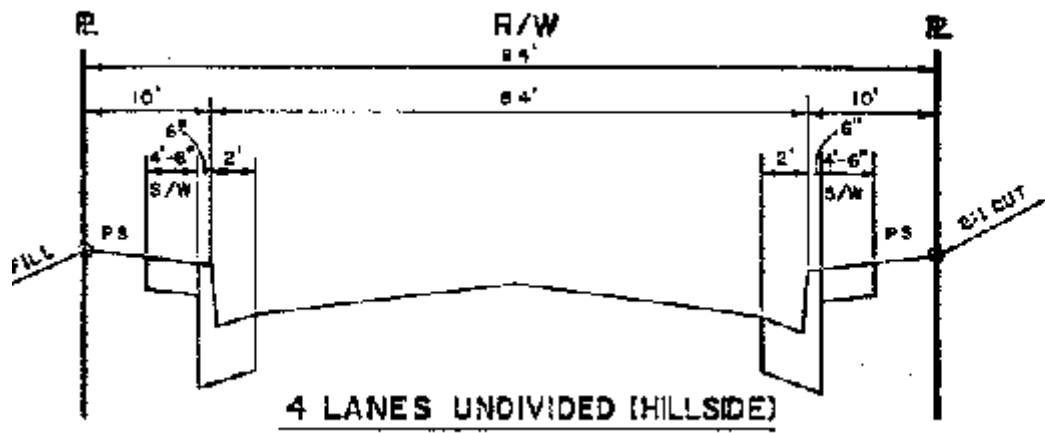
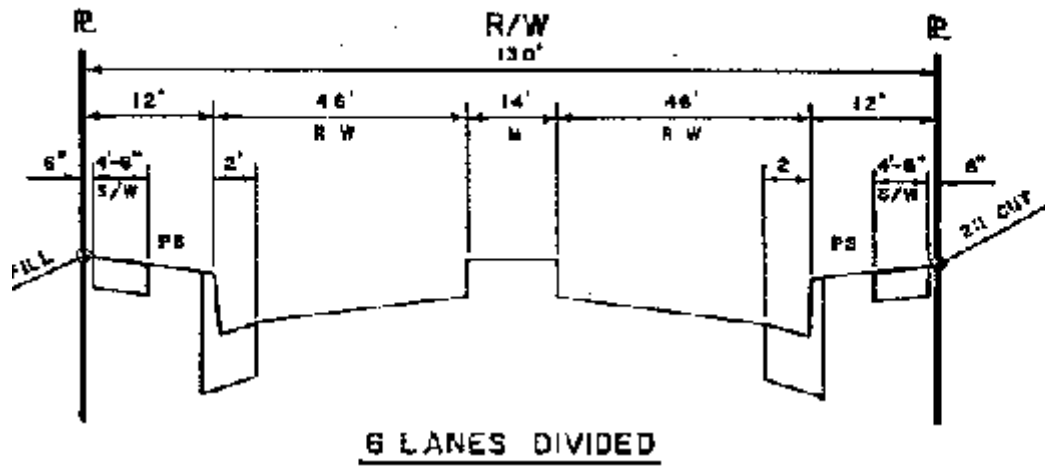
MINOR STREETS (A) MAY BE USED INSTEAD OF
THIS STANDARD FOR MINOR STREETS ONLY, SUBJECT
TO SECTION 9270

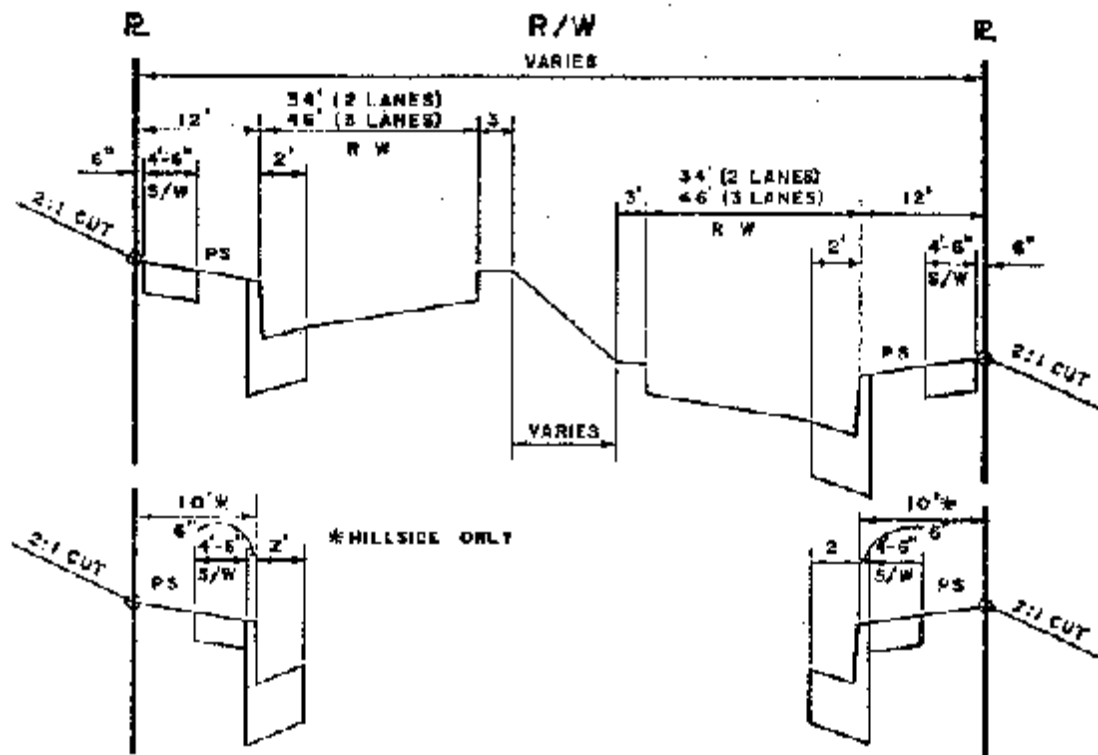


FOR EITHER MINOR STREETS OR CUL-DE-SAC STREETS

HILLSIDE & SPECIAL USES GRANTED BY COUNCIL

MAJOR STREETS

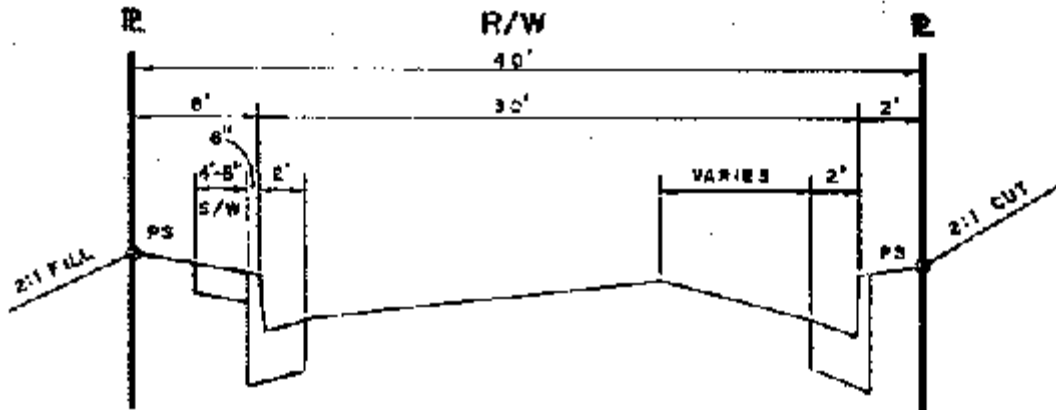




4 & 6 LANES DIVIDED (SPLIT LEVEL)

MINOR STREETS

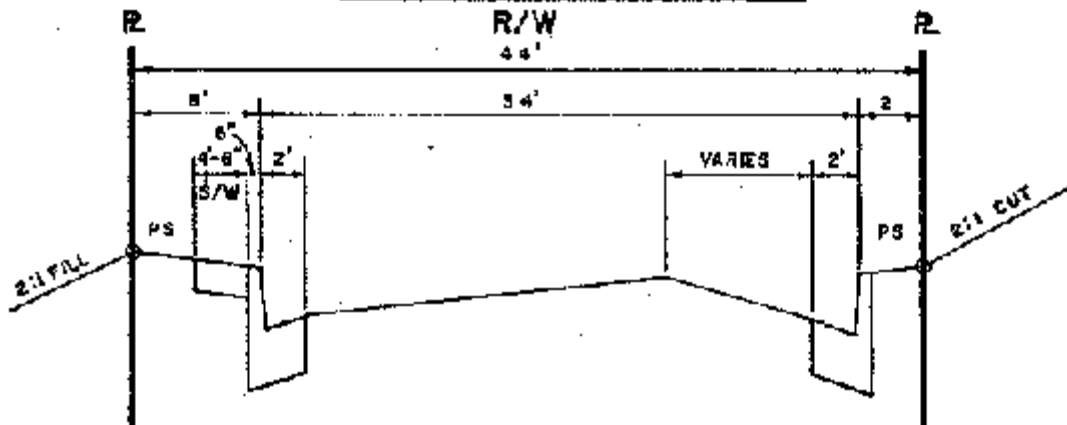
UFG. 10129



FRONTAGE ROAD

TO BE USED WHERE ONE SIDE OF STREET IS ADJACENT TO LAND THAT WILL NOT REQUIRE ACCESS SUCH AS FREEWAYS OR TOWER LINE RIGHT-OF-WAYS.

COLLECTOR STREETS



FRONTAGE ROAD

TO BE USED WHERE ONE SIDE OF STREET IS ADJACENT TO LAND THAT WILL NOT REQUIRE ACCESS SUCH AS FREEWAYS OR TOWER LINE RIGHT-OF-WAYS.